

Deficiency Writing for Third Party Reviewers: Examples

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Practice Makes Perfect

Applying concepts with examples helps reinforce learning principles in any area



How to Use this Presentation

1. Deficiency Writing for Third Party Reviewers
2. **Examples and Knowledge Checks**

Learning Objectives

- Review deficiency writing using four-part harmony format
- Identify aspects of four-part harmony in a good example/deficiency
- Complete knowledge checks to identify missing parts in incomplete deficiencies

Disclaimers

- Deficiencies and examples listed are to illustrate teaching principles only
- Does not intend to imply or establish regulatory policy with specific device examples
- Review applicable FDA laws, regulations and guidance for cross-cutting or specific matters

Four-Part Harmony

1. What was provided
2. What is deficient
3. Why it is needed
4. What is needed

A Good Example

- Include all four parts in a deficiency
- Look for each part in the full deficiency

The Full Deficiency

You have proposed that your powered muscle stimulator is intended to be used in the home environment by lay users. However, you have only included professional labeling intended for healthcare providers. The FDA recommends in our “Guidance on Medical Device Patient Labeling” that you provide patient labeling for your device since you intend for patients to operate the device. Therefore, please submit patient labeling that explains your device and includes directions for use, study design and results, and any additional relevant information. Please use clear language and terms understandable by the lay person. Please also include a glossary of all relevant medical terms and ensure that all appropriate contraindications, warnings, and precautions from the professional labeling are conceptually the same, but are rewritten for understanding by the lay person.

Part 1. What was provided

You have proposed that your powered muscle stimulator is intended to be used in the home environment by lay users.

Part 2. What is deficient

However, you have only included professional labeling intended for healthcare providers.

Part 3. Why it is needed

The FDA recommends in our “Guidance on Medical Device Patient Labeling” that you provide patient labeling for your device since you intend for lay persons to operate the device.

Part 4. What is needed

Therefore, please submit patient labeling that explains your device and includes directions for use, study design and results, and any additional relevant information.

Please use clear language and terms understandable by the lay person. Please also include a glossary of all relevant medical terms and ensure that all appropriate contraindications, warnings, and precautions from the professional labeling are conceptually the same, but are rewritten for understanding by the lay person.



Example 2: Full Deficiency (in color)

You have proposed that your powered muscle stimulator is intended to be used in the home environment by lay users. **However, you have only included professional labeling intended for healthcare providers.** The FDA recommends in our “Guidance on Medical Device Patient Labeling” that you provide patient labeling for your device since you intend for lay users to operate the device. Therefore, please submit patient labeling that explains your device and includes directions for use, study design and results, and any additional relevant information. Please use clear language and terms understandable by the lay person. Please also include a glossary of all relevant medical terms and ensure that all appropriate contraindications, warnings, and precautions from the professional labeling are conceptually the same, but are rewritten for understanding by the lay person.



Knowledge Check

Instruction: Knowledge Check

1. Read sample deficiencies
2. Find the missing part, one for each deficiency
3. Think about why adding the missing part is important

Sample Deficiency #1

You did not identify fresh and frozen samples in the line data, nor did you stratify clinical performance by fresh and frozen status. To ensure we better understand the performance of your test under your proposed conditions of use identified in your draft labeling, please update the line data to indicate fresh and frozen status and stratify clinical performance by this parameter.

Sample Deficiency #1

- ❑ **What was provided (that is, the missed part)**
- ✓ **What is deficient**
- ✓ **Why it is needed**
- ✓ **What is needed**

Def. #1: added “What was provided”

You provided line data for your prospective study for your *in vitro* test. From the dates listed in the line data for specimen collection and inoculation, it appears that both fresh and frozen samples were tested.

However, you did not identify fresh and frozen samples in the line data, nor did you stratify clinical performance by fresh and frozen status. To ensure we better understand the performance of your test under your proposed conditions of use identified in your draft labeling, please update the line data to indicate fresh and frozen status and stratify clinical performance by this parameter.



Sample Deficiency #2

You referenced the currently FDA-recognized version of ISO 7886-1 in your submission for your hypodermic syringe and did not include a declaration of conformity. You should demonstrate conformance to Clauses 6 and 7 (or demonstrate substantial equivalence (SE) otherwise) because your identified predicate device was determined to be SE through ISO 7886-1 conformance. Therefore, please provide the test results from these two tests or provide a declaration of conformity to the methods and acceptance criteria identified in Clauses 6 and 7 of ISO 7886-1, so that the FDA may assess whether your performance data support the SE of your device to the predicate device.

Sample Deficiency #2

- ✓ What was provided
- ☐ **What is deficient**
- ✓ Why it is needed
- ✓ What is needed



Def. #2: added “What is deficient”

You referenced the currently FDA-recognized version of ISO 7886-1 in your submission for your hypodermic syringe and did not include a declaration of conformity. **While you have submitted several tests under ISO 7886-1, you did not include a summary of your testing regarding limits for acidity or alkalinity or limits for extractable metals (Clauses 6 and 7).** You should demonstrate conformance to Clauses 6 and 7 (or demonstrate substantial equivalence (SE) otherwise) because your identified predicate device was determined to be SE through ISO 7886-1 conformance. Therefore, please provide the test results from these two tests or provide a declaration of conformity to the methods and acceptance criteria identified in Clauses 6 and 7 of ISO 7886-1, so that the FDA may assess whether your performance data support the SE of your device to the predicate device.



Sample Deficiency #3

You have provided the protocols and results from a cytotoxicity test using your device in its final finished form, as recommended by the FDA guidance “Use of International Standard ISO 10993-1”. However, we have identified the following inadequacies in your testing:

- a. The currently FDA-recognized standard ISO 10993-12 recommends the use of surface area to determine the amount of device included in the extract. Please provide information to demonstrate that the use of weight to determine extraction ratio has an equivalent or greater amount of test article as compared to use of surface area.
- b. *(not included for brevity)*

If you cannot provide an adequate rationale, the FDA recommends that you complete new cytotoxicity testing using a sample preparation approach consistent with the surface area recommendations in the currently FDA-recognized version of ISO 10993-12.

Deficiency #3

- ✓ What was provided
- ✓ What is deficient
- ☐ **Why it is needed**
- ✓ What is needed



Def. #3: added “Why it is needed”

You have provided the protocols and results from a cytotoxicity test using your device in its final finished form, as recommended by the FDA guidance “Use of International Standard ISO 10993-1”. However, we have identified the following inadequacies in your testing:

- a. The currently FDA-recognized standard ISO 10993-12 recommends the use of surface area to determine the amount of device included in the extract. **We are concerned that use of weight instead of surface area may result in a false negative finding from the study (i.e., a negative finding may occur as a result of insufficient sample being present in the test system).** Please provide information to demonstrate that the use of weight to determine extraction ratio has an equivalent or greater amount of test article as compared to use of surface area.
- b. *(not included for brevity)*

If you cannot provide an adequate rationale, the FDA recommends that you complete new cytotoxicity testing using a sample preparation approach consistent with the surface area recommendations in the currently FDA-recognized version of ISO 10993-12.

Summary

1. The FDA follows least burdensome principles and guidance
2. Writing clear deficiencies helps improve understanding and resolution of regulatory issues
3. A well-written deficiency consists of four parts
4. Including all four parts allows complete understanding of issue and expectations

For More Information

- **FDA Third Party Review Program**

www.fda.gov/medical-devices/premarket-submissions/third-party-review

- **Contact the FDA Third Party Team**

3P510k@fda.hhs.gov

Your Call To Action

1. Fully understand the regulatory issues and details of submission
2. Apply the principles presented in this and the companion module when writing deficiencies and corresponding with sponsors



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