

Surety Bond Requirements for Wholesalers and Nonresident Wholesalers Questions and Answers

- Q. What documentation does our company need to provide to verify that our annual sales are less than \$10,000,000?
- A. Please submit a copy of the companies tax return for the previous year.
- Q. Our company is a manufacturer licensed by the FDA and appears to be exempt from the bonding requirement. Is that correct?
- A. A licensed manufacturer who only distributes drugs of its own manufacture, all of which have an approved new drug manufacturing application on file with the FDA, are exempt from the surety bond requirement. (See Business and Professions Code sections 4162 and 4162.5)
- Q. How do we communicate with the board that our business is exempt from the bonding requirement?
- A. To document this exemption, please provide the board with a list of manufactured drugs, including the respective NDC number along with a statement certifying that the business only distributes its own products.
- Q. We are a licensed wholesaler that only distributes products to pharmacies with the same ownership. Are we required to comply with the surety bond requirement?
- A Yes.
- Q. We have a surety bond on file with the State of Florida. Will this bond satisfy California's requirement?
- A. No. A surety bond must be on file with the California State Board of Pharmacy.
- Q. We have checked the board's Web site, but are unable to locate the forms. Where are they?
- A. The \$100,000 surety bond form, standby letter of credit form and cash deposit form are now available on the board's Web site, under Licensee Information. Select Site Permits and Licenses.

Q. What sections of California law require wholesalers to obtain a surety bond of other equivalent form of security?

A. See California Business and Professions Code section 4162 for wholesalers and section 4162.5 for nonresident wholesalers.

Q. I do not want to provide the board with evidence that our company's annual sales are less than \$10,000,000 to qualify for the \$25,000 bond. Will the board accept a \$25,000 bond without documentation of annual sales volume?

A. No. The bonding requirement is \$100,000 unless the wholesaler provides the board with proof of its annual sales volume that it qualifies for the \$25,000 bond.

Q. We have four licensed wholesaler sites? Do we need to obtain a bond for each location?

A. No. The owner of the sites need to post a single \$100,000 bond for all sites that are commonly owned.

Q. Do I need to provide evidence of the surety bond by January 1, 2006?

A. The bonding requirement is required to obtain an initial license or to renew a license, so a company needs to provide evidence of the bond when it applies for or renews its license, or the first of any of its wholesale licenses expire throughout the year. For companies with licenses that expire in January, February or March 2006, the board will accept proof that the company is obtaining a bond. By April 1, 2006, the board will not renew a wholesale license without a bond.

Q. We are a new company applying for a wholesaler license and as such do not have documented proof of annual gross receipts? Are we able to secure a \$25,000 surety bond?

A. No. New businesses must obtain a \$100,000 bond. However, should the business in the future demonstrate annual gross receipts of \$10 million or less, a new surety bond of \$25,000 may be obtained in lieu of the higher amount.

Q. Our company owns several subsidiary companies reflected as the owners of wholesalers. Are each of the subsidiary companies required to obtain their own respective bonds?

A. No, a single bond is required. Please provide the board with a copy of an organization chart documenting the ultimate owner of the subsidiary companies verifying the common ownership.