

CONSTRUCTION OF 2007 AMENDMENTS ON PEDIATRIC STUDIES

Pub. L. 110-85, title IX, §901(e), Sept. 27, 2007, 121 Stat. 942, provided that: “This title [enacting sections 353b, 355-1, 355e, 360a, and 360bbb-6 of this title, amending sections 331, 333, 334, 352, 355, and 381 of this title and section 262 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 331, 352, and 355 of this title] and the amendments made by this title may not be construed as affecting the authority of the Secretary of Health and Human Services to request pediatric studies under section 505A of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355a] or to require such studies under section 505B of such Act [21 U.S.C. 355c].”

REPORT ON PEDIATRIC EXCLUSIVITY PROGRAM

Pub. L. 107-109, §16, Jan. 4, 2002, 115 Stat. 1421, as amended by Pub. L. 108-155, §3(b)(4), Dec. 3, 2003, 117 Stat. 1942, required the Comptroller General, not later than Oct. 1, 2006, and in consultation with the Secretary of Health and Human Services, to submit to Congress a report on specified issues concerning the effectiveness of the pediatric exclusivity program.

STUDY BY GENERAL ACCOUNTING OFFICE

Pub. L. 107-109, §18(b), Jan. 4, 2002, 115 Stat. 1423, required the Comptroller General, not later than Jan. 10, 2003, to conduct a study relating to the representation of children of ethnic and racial minorities in studies under section 355a of this title and to submit a report to Congress describing the findings of the study.

**§ 355b. Adverse-event reporting**

**(a) Toll-free number in labeling**

Not later than one year after January 4, 2002, the Secretary of Health and Human Services shall promulgate a final rule requiring that the labeling of each drug for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] (regardless of the date on which approved) include the toll-free number maintained by the Secretary for the purpose of receiving reports of adverse events regarding drugs and a statement that such number is to be used for reporting purposes only, not to receive medical advice. With respect to the final rule:

(1) The rule shall provide for the implementation of such labeling requirement in a manner that the Secretary considers to be most likely to reach the broadest consumer audience.

(2) In promulgating the rule, the Secretary shall seek to minimize the cost of the rule on the pharmacy profession.

(3) The rule shall take effect not later than 60 days after the date on which the rule is promulgated.

**(b) Drugs with pediatric market exclusivity**

**(1) In general**

During the one year beginning on the date on which a drug receives a period of market exclusivity under 505A<sup>1</sup> of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355a], any report of an adverse event regarding the drug that the Secretary of Health and Human Services receives shall be referred to the Office of Pediatric Therapeutics established under section 393a of this title. In considering the re-

port, the Director of such Office shall provide for the review of the report by the Pediatric Advisory Committee, including obtaining any recommendations of such subcommittee<sup>2</sup> regarding whether the Secretary should take action under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] in response to the report.

**(2) Rule of construction**

Paragraph (1) may not be construed as restricting the authority of the Secretary of Health and Human Services to continue carrying out the activities described in such paragraph regarding a drug after the one-year period described in such paragraph regarding the drug has expired.

(Pub. L. 107-109, §17, Jan. 4, 2002, 115 Stat. 1422; Pub. L. 108-155, §3(b)(5), Dec. 3, 2003, 117 Stat. 1942.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see section 301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Best Pharmaceuticals for Children Act, and not as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108-155 struck out “Advisory Subcommittee of the Anti-Infective Drugs” before “Advisory Committee”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-155 effective Dec. 3, 2003, except as otherwise provided, see section 4 of Pub. L. 108-155, set out as an Effective Date note under section 355c of this title.

**§ 355c. Research into pediatric uses for drugs and biological products**

**(a) New drugs and biological products**

**(1) In general**

A person that submits, on or after September 27, 2007, an application (or supplement to an application)—

(A) under section 355 of this title for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration, or

(B) under section 262 of title 42 for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration,

shall submit with the application the assessments described in paragraph (2).

**(2) Assessments**

**(A) In general**

The assessments referred to in paragraph (1) shall contain data, gathered using appropriate formulations for each age group for which the assessment is required, that are adequate—

<sup>1</sup> So in original. Probably should be preceded by “section”.

<sup>2</sup> So in original. Probably should be “Committee”.