

PART D—DISSEMINATION OF TREATMENT
INFORMATION

§§ 360aaa to 360aaa-6. Omitted

CODIFICATION

Sections 360aaa to 360aaa-6 ceased to be effective pursuant to section 401(e) of Pub. L. 105-115, set out as an Effective and Termination Dates note below.

Section 360aaa, act June 25, 1938, ch. 675, §551, as added Pub. L. 105-115, title IV, §401(a), Nov. 21, 1997, 111 Stat. 2356, related to requirements for dissemination of treatment information on drugs or devices.

Section 360aaa-1, act June 25, 1938, ch. 675, §552, as added Pub. L. 105-115, title IV, §401(a), Nov. 21, 1997, 111 Stat. 2358, related to information authorized to be disseminated under section 360aaa.

Section 360aaa-2, act June 25, 1938, ch. 675, §553, as added Pub. L. 105-115, title IV, §401(a), Nov. 21, 1997, 111 Stat. 2359, related to establishment of list of articles and publications disseminated and list of providers that received articles and reference publications.

Section 360aaa-3, act June 25, 1938, ch. 675, §554, as added Pub. L. 105-115, title IV, §401(a), Nov. 21, 1997, 111 Stat. 2359, related to requirement regarding submission of supplemental application for new use and an exemption from that requirement.

Section 360aaa-4, act June 25, 1938, ch. 675, §555, as added Pub. L. 105-115, title IV, §401(a), Nov. 21, 1997, 111 Stat. 2361, related to corrective actions and cessation of dissemination.

Section 360aaa-5, act June 25, 1938, ch. 675, §556, as added Pub. L. 105-115, title IV, §401(a), Nov. 21, 1997, 111 Stat. 2362, related to definitions.

Section 360aaa-6, act June 25, 1938, ch. 675, §557, as added Pub. L. 105-115, title IV, §401(a), Nov. 21, 1997, 111 Stat. 2363, related to rules of construction.

EFFECTIVE AND TERMINATION DATES

Pub. L. 105-115, title IV, §401(d), Nov. 21, 1997, 111 Stat. 2364, provided that: "The amendments made by this section [enacting this part and amending section 331 of this title] shall take effect 1 year after the date of enactment of this Act [Nov. 21, 1997], or upon the Secretary's issuance of final regulations pursuant to subsection (c) [section 401(c) of Pub. L. 105-115 set out below] [Such regulations were issued effective Nov. 20, 1998. See 63 F.R. 64556.], whichever is sooner."

Pub. L. 105-115, title IV, §401(e), Nov. 21, 1997, 111 Stat. 2364, provided that: "The amendments made by this section [enacting this part and amending section 331 of this title] cease to be effective September 30, 2006, or 7 years after the date on which the Secretary promulgates the regulations described in subsection (c) [section 401(c) of Pub. L. 105-115 set out below] [Such regulations were issued effective Nov. 20, 1998. See 63 F.R. 64556.], whichever is later."

REGULATIONS

Pub. L. 105-115, title IV, §401(c), Nov. 21, 1997, 111 Stat. 2364, provided that: "Not later than 1 year after the date of enactment of this Act [Nov. 21, 1997], the Secretary of Health and Human Services shall promulgate regulations to implement the amendments made by this section [enacting this part and amending section 331 of this title]."

PART E—GENERAL PROVISIONS RELATING TO
DRUGS AND DEVICES

§ 360bbb. Expanded access to unapproved therapies and diagnostics

(a) Emergency situations

The Secretary may, under appropriate conditions determined by the Secretary, authorize the shipment of investigational drugs or investigational devices for the diagnosis, monitoring,

or treatment of a serious disease or condition in emergency situations.

(b) Individual patient access to investigational products intended for serious diseases

Any person, acting through a physician licensed in accordance with State law, may request from a manufacturer or distributor, and any manufacturer or distributor may, after complying with the provisions of this subsection, provide to such physician an investigational drug or investigational device for the diagnosis, monitoring, or treatment of a serious disease or condition if—

(1) the licensed physician determines that the person has no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat the disease or condition involved, and that the probable risk to the person from the investigational drug or investigational device is not greater than the probable risk from the disease or condition;

(2) the Secretary determines that there is sufficient evidence of safety and effectiveness to support the use of the investigational drug or investigational device in the case described in paragraph (1);

(3) the Secretary determines that provision of the investigational drug or investigational device will not interfere with the initiation, conduct, or completion of clinical investigations to support marketing approval; and

(4) the sponsor, or clinical investigator, of the investigational drug or investigational device submits to the Secretary a clinical protocol consistent with the provisions of section 355(i) or 360j(g) of this title, including any regulations promulgated under section 355(i) or 360j(g) of this title, describing the use of the investigational drug or investigational device in a single patient or a small group of patients.

(c) Treatment investigational new drug applications and treatment investigational device exemptions

Upon submission by a sponsor or a physician of a protocol intended to provide widespread access to an investigational drug or investigational device for eligible patients (referred to in this subsection as an "expanded access protocol"), the Secretary shall permit such investigational drug or investigational device to be made available for expanded access under a treatment investigational new drug application or treatment investigational device exemption if the Secretary determines that—

(1) under the treatment investigational new drug application or treatment investigational device exemption, the investigational drug or investigational device is intended for use in the diagnosis, monitoring, or treatment of a serious or immediately life-threatening disease or condition;

(2) there is no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat that stage of disease or condition in the population of patients to which the investigational drug or investigational device is intended to be administered;

(3)(A) the investigational drug or investigational device is under investigation in a con-