

Subsec. (i)(2). Pub. L. 112-144, §509(b)(5)(B), substituted “periods” for “years” in heading and “18-month period” for “one-year period” in text.

Subsec. (i)(3), (4). Pub. L. 112-144, §509(b)(5)(C), (D), added par. (3) and redesignated former par. (3) as (4).

Subsecs. (m), (n). Pub. L. 112-144, §501(b), redesignated subsec. (n) as (m) and struck out former subsec. (m). Prior to amendment, text of subsec. (m) read as follows: “The authority under this section shall remain in effect so long as an application subject to this section may be accepted for filing by the Secretary on or before the date specified in section 355a(q) of this title.”

2010—Subsec. (n). Pub. L. 111-148 added subsec. (n).

2007—Pub. L. 110-85 amended section generally. Prior to amendment, section related to required submission of assessments with an application for a new drug or new biological product and by order of the Secretary for certain marketed drugs and biological products used for pediatric patients, a definition of meaningful therapeutic benefit, consequences of failure to submit required assessments, meetings of the Secretary and the sponsor of a new drug or biological product, a limitation of the scope of the Secretary’s authority, application to orphan drugs, and integration with other pediatric studies.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-144, title V, §506(c), July 9, 2012, 126 Stat. 1045, provided that:

“(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section [amending this section] shall take effect 180 calendar days after the date of enactment of this Act [July 9, 2012], irrespective of whether the Secretary [of Health and Human Services] has promulgated final regulations to carry out such amendments.

“(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to affect the deadline for promulgation of proposed regulations under section 505B(e)(7) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355c(e)(7)], as added by subsection (a) of this section.”

Notwithstanding any provision of this section stating that a provision applies beginning on Sept. 27, 2007, any amendment made by Pub. L. 112-144 to such a provision applies beginning on July 9, 2012, subject to a transitional rule, see section 509(g) of Pub. L. 112-144, set out as a note under section 355a of this title.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-85, title IV, §402(b), Sept. 27, 2007, 121 Stat. 875, provided that:

“(1) IN GENERAL.—Notwithstanding subsection (h) of section 505B of the Federal Food, Drug and Cosmetic Act [21 U.S.C. 355c(h)], as in effect on the day before the date of the enactment of this Act [Sept. 27, 2007], a pending assessment, including a deferred assessment, required under such section 505B shall be deemed to have been required under section 505B of the Federal Food, Drug and Cosmetic Act as in effect on or after the date of the enactment of this Act.

“(2) CERTAIN ASSESSMENTS AND WAIVER REQUESTS.—An assessment pending on or after the date that is 1 year prior to the date of the enactment of this Act shall be subject to the tracking and disclosure requirements established under such section 505B, as in effect on or after such date of enactment, except that any such assessments submitted or waivers of such assessments requested before such date of enactment shall not be subject to subsections (a)(4)(C), (b)(2)(C), (f)(6)(F), and (h) of such section 505B.”

#### EFFECTIVE DATE

Pub. L. 108-155, §4, Dec. 3, 2003, 117 Stat. 1942, provided that:

“(a) IN GENERAL.—Subject to subsection (b), this Act [enacting this section, amending sections 355, 355a, and 355b of this title and sections 262 and 284m of Title 42, The Public Health and Welfare, enacting provisions set

out as a note under section 301 of this title, and amending provisions set out as notes under section 355a of this title and section 284m of Title 42] and the amendments made by this Act take effect on the date of enactment of this Act [Dec. 3, 2003].

“(b) APPLICABILITY TO NEW DRUGS AND BIOLOGICAL PRODUCTS.—

“(1) IN GENERAL.—Subsection (a) of section 505B of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355c(a)] (as added by section 2) shall apply to an application described in paragraph (1) of that subsection submitted to the Secretary of Health and Human Services on or after April 1, 1999.

“(2) WAIVERS AND DEFERRALS.—

“(A) WAIVER OR DEFERRAL GRANTED.—If, with respect to an application submitted to the Secretary of Health and Human Services between April 1, 1999, and the date of enactment of this Act [Dec. 3, 2003], a waiver or deferral of pediatric assessments was granted under regulations of the Secretary then in effect, the waiver or deferral shall be a waiver or deferral under subsection (a) of section 505B of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355c(a)], except that any date specified in such a deferral shall be extended by the number of days that is equal to the number of days between October 17, 2002, and the date of enactment of this Act.

“(B) WAIVER AND DEFERRAL NOT GRANTED.—If, with respect to an application submitted to the Secretary of Health and Human Services between April 1, 1999, and the date of enactment of this Act [Dec. 3, 2003], neither a waiver nor deferral of pediatric assessments was granted under regulations of the Secretary then in effect, the person that submitted the application shall be required to submit assessments under subsection (a)(2) of section 505B of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355c(a)(2)] on the date that is the later of—

“(i) the date that is 1 year after the date of enactment of this Act; or

“(ii) such date as the Secretary may specify under subsection (a)(3) of that section;

unless the Secretary grants a waiver under subsection (a)(4) of that section.

“(C) NO LIMITATION OF AUTHORITY.—Neither the lack of guidance or regulations to implement this Act or the amendments made by this Act nor the pendency of the process for issuing guidance or regulations shall limit the authority of the Secretary of Health and Human Services under, or defer any requirement under, this Act or those amendments.”

## § 355c-1. Report

### (a) In general

Not later than four years after July 9, 2012, and every five years thereafter, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, and make publicly available, including through posting on the Internet Web site of the Food and Drug Administration, a report on the implementation of sections 355a and 355c of this title.

### (b) Contents

Each report under subsection (a) shall include—

(1) an assessment of the effectiveness of sections 355a and 355c of this title in improving information about pediatric uses for approved drugs and biological products, including the number and type of labeling changes made since July 9, 2012, and the importance of such uses in the improvement of the health of children;

(2) the number of required studies under such section 355c of this title that have not met the initial deadline provided under such section 355c of this title, including—

(A) the number of deferrals and deferral extensions granted and the reasons such extensions were granted;

(B) the number of waivers and partial waivers granted; and

(C) the number of letters issued under subsection (d) of such section 355c of this title;

(3) an assessment of the timeliness and effectiveness of pediatric study planning since July 9, 2012, including the number of initial pediatric study plans not submitted in accordance with the requirements of subsection (e) of such section 355c of this title and any resulting rulemaking;

(4) the number of written requests issued, accepted, and declined under such section 355a of this title since July 9, 2012, and a listing of any important gaps in pediatric information as a result of such declined requests;

(5) a description and current status of referrals made under subsection (n) of such section 355a of this title;

(6) an assessment of the effectiveness of studying biological products in pediatric populations under such sections 355a and 355c of this title and section 284m of title 42;

(7)(A) the efforts made by the Secretary to increase the number of studies conducted in the neonatal population (including efforts made to encourage the conduct of appropriate studies in neonates by companies with products that have sufficient safety and other information to make the conduct of the studies ethical and safe); and

(B) the results of such efforts;

(8)(A) the number and importance of drugs and biological products for children with cancer that are being tested as a result of the programs under such sections 355a and 355c of this title and under section 284m of title 42; and

(B) any recommendations for modifications to such programs that would lead to new and better therapies for children with cancer, including a detailed rationale for each recommendation;

(9) any recommendations for modification to such programs that would improve pediatric drug research and increase pediatric labeling of drugs and biological products;

(10) an assessment of the successes of and limitations to studying drugs for rare diseases under such sections 355a and 355c of this title; and

(11) an assessment of the Secretary's efforts to address the suggestions and options described in any prior report issued by the Comptroller General, Institute of Medicine, or the Secretary, and any subsequent reports, including recommendations therein, regarding the topics addressed in the reports under this section, including with respect to—

(A) improving public access to information from pediatric studies conducted under such sections 355a and 355c of this title; and

(B) improving the timeliness of pediatric studies and pediatric study planning under such sections 355a and 355c of this title.

### (c) Stakeholder comment

At least 180 days prior to the submission of each report under subsection (a), the Secretary shall consult with representatives of patient groups (including pediatric patient groups), consumer groups, regulated industry, academia, and other interested parties to obtain any recommendations or information relevant to the report including suggestions for modifications that would improve pediatric drug research and pediatric labeling of drugs and biological products.

(Pub. L. 112-144, title V, § 508, July 9, 2012, 126 Stat. 1045.)

### CODIFICATION

Section was enacted as part of the Food and Drug Administration Safety and Innovation Act, and not as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter.

### DEFINITION OF "SECRETARY"

The term "Secretary" as used in this section means the Secretary of Health and Human Services, see section 503 of Pub. L. 112-144, set out as a note under section 355a of this title.

### § 355d. Internal committee for review of pediatric plans, assessments, deferrals, deferral extensions, and waivers

The Secretary shall establish an internal committee within the Food and Drug Administration to carry out the activities as described in sections 355a(f) and 355c(f) of this title. Such internal committee shall include employees of the Food and Drug Administration, with expertise in pediatrics (including representation from the Office of Pediatric Therapeutics), biopharmacology, statistics, chemistry, legal issues, pediatric ethics, neonatology, and the appropriate expertise pertaining to the pediatric product under review, such as expertise in child and adolescent psychiatry, and other individuals designated by the Secretary.

(June 25, 1938, ch. 675, § 505C, as added Pub. L. 110-85, title IV, § 403, Sept. 27, 2007, 121 Stat. 875; amended Pub. L. 112-144, title V, § 509(c), July 9, 2012, 126 Stat. 1049.)

### AMENDMENTS

2012—Pub. L. 112-144 inserted "deferral extensions," after "deferrals," in section catchline and "neonatology," after "pediatric ethics," in text.

### § 355e. Pharmaceutical security

#### (a) In general

The Secretary shall develop standards and identify and validate effective technologies for the purpose of securing the drug supply chain against counterfeit, diverted, subpotent, substandard, adulterated, misbranded, or expired drugs.

#### (b) Standards development

##### (1) In general

The Secretary shall, in consultation with the agencies specified in paragraph (4), manufacturers, distributors, pharmacies, and other supply chain stakeholders, prioritize and develop standards for the identification, valida-