

**(d) Annual report**

Not later than 18 months after September 27, 2007, and annually thereafter, the Secretary, in collaboration with the parties to each Critical Path Public-Private Partnership, shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives—

- (1) reviewing the operations and activities of the Partnerships in the previous year; and
- (2) addressing such other issues relating to this section as the Secretary determines to be appropriate.

**(e) Definition**

In this section, the term “medical product” includes a drug, a biological product as defined in section 262 of title 42, a device, and any combination of such products.

**(f) Authorization of appropriations**

To carry out this section, there is authorized to be appropriated \$6,000,000 for each of fiscal years 2018 through 2022.

(June 25, 1938, ch. 675, §566, as added Pub. L. 110-85, title VI, §603, Sept. 27, 2007, 121 Stat. 898; amended Pub. L. 112-144, title XI, §1102, July 9, 2012, 126 Stat. 1108; Pub. L. 115-52, title VI, §602, Aug. 18, 2017, 131 Stat. 1048.)

## AMENDMENTS

2017—Subsec. (f). Pub. L. 115-52 substituted “2018 through 2022” for “2013 through 2017”.

2012—Subsec. (f). Pub. L. 112-144 amended subsec. (f) generally. Prior to amendment, text read as follows: “To carry out this section, there are authorized to be appropriated \$5,000,000 for fiscal year 2008 and such sums as may be necessary for each of fiscal years 2009 through 2012.”

**§ 360bbb-6. Risk communication****(a) Advisory Committee on Risk Communication****(1) In general**

The Secretary shall establish an advisory committee to be known as the “Advisory Committee on Risk Communication” (referred to in this section as the “Committee”).

**(2) Duties of Committee**

The Committee shall advise the Commissioner on methods to effectively communicate risks associated with the products regulated by the Food and Drug Administration.

**(3) Members**

The Secretary shall ensure that the Committee is composed of experts on risk communication, experts on the risks described in subsection (b), and representatives of patient, consumer, and health professional organizations.

**(4) Permanence of Committee**

Section 14 of the Federal Advisory Committee Act shall not apply to the Committee established under this subsection.

**(b) Partnerships for risk communication****(1) In general**

The Secretary shall partner with professional medical societies, medical schools, aca-

demical medical centers, and other stakeholders to develop robust and multi-faceted systems for communication to health care providers about emerging postmarket drug risks.

**(2) Partnerships**

The systems developed under paragraph (1) shall—

- (A) account for the diversity among physicians in terms of practice, willingness to adopt technology, and medical specialty; and
- (B) include the use of existing communication channels, including electronic communications, in place at the Food and Drug Administration.

(June 25, 1938, ch. 675, §567, as added Pub. L. 110-85, title IX, §917, Sept. 27, 2007, 121 Stat. 960.)

## REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (a)(4), is section 14 of Pub. L. 92-463, which is set out in the Appendix to Title 5, Government Organization and Employees.

**§ 360bbb-7. Notification****(a) Notification to Secretary**

With respect to a drug, the Secretary may require notification to the Secretary by a regulated person if the regulated person knows—

- (1) that the use of such drug in the United States may result in serious injury or death;
- (2) of a significant loss or known theft of such drug intended for use in the United States; or
- (3) that—

(A) such drug has been or is being counterfeited; and

(B)(i) the counterfeit product is in commerce in the United States or could be reasonably expected to be introduced into commerce in the United States; or

(ii) such drug has been or is being imported into the United States or may reasonably be expected to be offered for import into the United States.

**(b) Manner of notification**

Notification under this section shall be made in such manner and by such means as the Secretary may specify by regulation or guidance.

**(c) Savings clause**

Nothing in this section shall be construed as limiting any other authority of the Secretary to require notifications related to a drug under any other provision of this chapter or the Public Health Service Act [42 U.S.C. 201 et seq.].

**(d) Definition**

In this section, the term “regulated person” means—

- (1) a person who is required to register under section 360 or 381(s) of this title;
- (2) a wholesale distributor of a drug product; or
- (3) any other person that distributes drugs except a person that distributes drugs exclusively for retail sale.

(June 25, 1938, ch. 675, §568, as added Pub. L. 112-144, title VII, §715(b), July 9, 2012, 126 Stat. 1075.)

## REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (c), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

**§ 360bbb–8. Consultation with external experts on rare diseases, targeted therapies, and genetic targeting of treatments**

**(a) In general**

For the purpose of promoting the efficiency of and informing the review by the Food and Drug Administration of new drugs and biological products for rare diseases and drugs and biological products that are genetically targeted, the following shall apply:

**(1) Consultation with stakeholders**

Consistent with sections X.C and IX.E.4 of the PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2013 through 2017, as referenced in the letters described in section 101(b) of the Prescription Drug User Fee Amendments of 2012, the Secretary shall ensure that opportunities exist, at a time the Secretary determines appropriate, for consultations with stakeholders on the topics described in subsection (b).

**(2) Consultation with external experts**

**(A) In general**

The Secretary shall develop and maintain a list of external experts who, because of their special expertise, are qualified to provide advice on rare disease issues, including topics described in subsection (b). The Secretary may, when appropriate to address a specific regulatory question, consult such external experts on issues related to the review of new drugs and biological products for rare diseases and drugs and biological products that are genetically targeted, including the topics described in subsection (b), when such consultation is necessary because the Secretary lacks the specific scientific, medical, or technical expertise necessary for the performance of the Secretary's regulatory responsibilities and the necessary expertise can be provided by the external experts.

**(B) External experts**

For purposes of subparagraph (A), external experts are individuals who possess scientific or medical training that the Secretary lacks with respect to one or more rare diseases.

**(b) Topics for consultation**

Topics for consultation pursuant to this section may include—

- (1) rare diseases;
- (2) the severity of rare diseases;
- (3) the unmet medical need associated with rare diseases;
- (4) the willingness and ability of individuals with a rare disease to participate in clinical trials;
- (5) an assessment of the benefits and risks of therapies to treat rare diseases;

(6) the general design of clinical trials for rare disease populations and subpopulations; and

(7) the demographics and the clinical description of patient populations.

**(c) Classification as special government employees**

The external experts who are consulted under this section may be considered special government employees, as defined under section 202 of title 18.

**(d) Protection of confidential information and trade secrets**

**(1) Rule of construction**

Nothing in this section shall be construed to alter the protections offered by laws, regulations, and policies governing disclosure of confidential commercial or trade secret information, and any other information exempt from disclosure pursuant to section 552(b) of title 5 as such provisions would be applied to consultation with individuals and organizations prior to July 9, 2012.

**(2) Consent required for disclosure**

The Secretary shall not disclose confidential commercial or trade secret information to an expert consulted under this section without the written consent of the sponsor unless the expert is a special government employee (as defined under section 202 of title 18) or the disclosure is otherwise authorized by law.

**(e) Other consultation**

Nothing in this section shall be construed to limit the ability of the Secretary to consult with individuals and organizations as authorized prior to July 9, 2012.

**(f) No right or obligation**

**(1) No right to consultation**

Nothing in this section shall be construed to create a legal right for a consultation on any matter or require the Secretary to meet with any particular expert or stakeholder.

**(2) No altering of goals**

Nothing in this section shall be construed to alter agreed upon goals and procedures identified in the letters described in section 101(b) of the Prescription Drug User Fee Amendments of 2012.

**(3) No change to number of review cycles**

Nothing in this section is intended to increase the number of review cycles as in effect before July 9, 2012.

**(g) No delay in product review**

**(1) In general**

Prior to a consultation with an external expert, as described in this section, relating to an investigational new drug application under section 355(i) of this title, a new drug application under section 355(b) of this title, or a biologics license application under section 262 of title 42, the Director of the Center for Drug Evaluation and Research or the Director of the Center for Biologics Evaluation and Research (or appropriate Division Director), as appropriate, shall determine that—