# RARE Disease Company Coalition

June 6, 2022

Dear Chair Murray and Ranking Member Burr,

The Rare Disease Company Coalition (RDCC) appreciates the opportunity to provide comments on S. 4348, the Food and Drug Administration Safety and Landmark Advancements (FDASLA) Act of 2022. We applaud the work that the Senate Health, Education, Labor, and Pensions (HELP) Committee has done thus far to ensure the timely reauthorization of the Prescription Drug User Fee Act (PDUFA). As you prepare to advance the bill through the Committee this week, we would like to offer several suggestions for your consideration.

The RDCC represents 21 innovative life science companies committed to discovering, developing, and delivering treatments for the one in ten Americans living with a rare disease. Collectively, Coalition members invested over $12.4 billion in R&D in 2021; have brought 31 treatments to market to date, the majority of which are first-to-market therapies; and are presently working on more than 200 rare disease development programs, many of which would be the first ever FDA-approved therapy for patients with a given rare disorder.

As the Committee considers potential amendments to FDASLA, we want to emphasize several items for consideration that are critical to development of treatments for the over 90% of rare diseases that currently have no FDA-approved therapies. Our specific suggestions are in brief and in further detail below:

- Include the Helping Experts Accelerate Rare Treatments (HEART) Act (S. 4071) in FDASLA and add language relating to reporting on FDA reviewer training;
- Maintain appropriate regulatory flexibility with regards to the accelerated approval pathway (AAP).

**Inclusion of the Helping Experts Accelerate Rare Treatments (HEART) Act (S. 4071)**

The RDCC supports efforts to bolster patient-focused drug development (PFDD) and enhance external stakeholder engagement in the therapy development process. In particular, we encourage the HELP Committee to consider the inclusion of the bipartisan HEART Act (S. 4071) in FDASLA.

The HEART Act would require the FDA to submit an annual report analyzing the number of orphan drug applications; the number of approvals and rejections of such applications, including trends across review divisions; the size of affected populations; and the extent of external stakeholder engagement. The bill also provides an opportunity for the FDA to consult appropriate external experts, with knowledge on either the disease or condition or of small population studies, as well as patients and patient groups.

The report provides an opportunity to further understanding of the FDA's approach to orphan drugs and to understand trends across and within review divisions. Consultation with patients, patient groups, disease-specific experts, and small population study experts will help the FDA make well-informed decisions and advance rare disease therapy development to ensure that people living with rare diseases have access to new therapeutic treatment options in a safe and timely manner.

**FDA Reviewer Expertise**

As the Committee evaluates language related to annual orphan drug reports, we ask that you also consider additional language related to FDA reviewer expertise. Too frequently, the biggest challenge faced by sponsors at FDA with respect to rare disease therapies is the lack of expertise on review teams for the rare disease under review and the lack of knowledge and experience with rare diseases generally among different review divisions and centers. This lack of expertise has unfortunately led to inconsistencies in the sponsor experience to the detriment of the patient. Most significantly, sponsors have experienced variability in the standard of review and openness to innovative trial designs and pathways applied across review divisions, and a prolonged review process.

The annual reporting language included in the HEART Act should be further clarified to include text that enables greater understanding of the applied standard of review across different review divisions, especially with respect to a review division's use of tools like benefit-risk, patient experience data, real world evidence, and precedent for previously approved drugs for rare diseases.

**Accelerated Approval Pathway (AAP)**

The RDCC is broadly supportive of Section 506 of FDASLA and appreciates the Committee's approach to strengthen trust in and preserve the intent of the AAP. The AAP recognizes that a "one-size-fits-all" traditional model for drug development does not work for all diseases - especially serious and rare diseases with small population sizes and slow and variable disease progression.

In general, the RDCC believes that the HELP Committee's approach aligns with our perspective on AAP reform, including support for policies that:

- Encourage early engagement, agreement, and initiation of confirmatory studies prior to approval, when feasible.
- Encourage use of real world evidence in support of, and as an *alternative* to, controlled clinical studies to confirm clinical benefits.
- Require earlier communication and informed sponsor engagement opportunities with the FDA with respect to whether accelerated approval is under consideration for an NDA or BLA.
- Enhance the visibility of confirmatory trial progress.
- Promote scientific leadership from the agency to encourage more consistent use of the pathway within its defined scope across different disease states.

S. 4348 would amend the statute to codify current FDA policy by expressly clarifying that the FDA may allow sponsors to submit real world evidence to "augment or support" accelerated approval confirmatory studies, but not to supplant such studies, if FDA requires such studies. The statute allows sponsors to submit real-world evidence, such as patient registries and electronic health records, to fulfill the post-approval study requirements for RMAT designated drugs entering the market under accelerated approval. We encourage the HELP Committee to extend this to all rare disease therapies.

Thank you for your attention to our recommendations. The RDCC appreciates the opportunity to provide feedback on the legislative text and looks forward to engaging with Committee staff and members to

ensure that the final package reflects the rare disease innovator perspective. If you have any questions, please feel free to contact Amanda Malakoff at amanda@rarecoalition.com.

Sincerely,
Amanda Malakoff
Executive Director
Rare Disease Company Coalition