

112TH CONGRESS
1ST SESSION

H. R. 3737

To amend the Federal Food, Drug, and Cosmetic Act with respect to fast track approval of certain orphan drugs.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2011

Mr. STEARNS (for himself and Mr. TOWNS) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Food, Drug, and Cosmetic Act with respect to fast track approval of certain orphan drugs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Unlocking Lifesaving
5 Treatments for Rare-Diseases Act” or “ULTRA”.

1 **SEC. 2. IMPROVING THE ACCELERATED APPROVAL PATH-**
2 **WAY FOR FAST TRACK PRODUCTS TO SERVE**
3 **THE UNMET NEEDS OF INDIVIDUALS WITH**
4 **ULTRA RARE DISEASES.**

5 Section 506 of the Federal Food, Drug, and Cosmetic
6 Act (21 U.S.C. 356) is amended by adding at the end the
7 following:

8 “(e) SCIENTIFIC STANDARDS FOR APPROVAL OF
9 CERTAIN ORPHAN DRUGS AS FAST TRACK PRODUCTS.—

10 “(1) IN GENERAL.—The Secretary may approve
11 an application for a drug designated under section
12 526 for a rare disease or condition as a fast track
13 product using a surrogate endpoint as described
14 under paragraph (2) if—

15 “(A) the Secretary makes an initial deter-
16 mination that the drug is eligible for approval—

17 “(i) as a drug designated for a rare
18 disease or condition under section 526; and

19 “(ii) as a fast track product under
20 this section; and

21 “(B) the drug is a treatment for a disease
22 or condition that affects a small number of pa-
23 tients in the United States, as determined by
24 the Secretary in designating the drug for a rare
25 disease or condition under section 526.

1 “(2) SURROGATE ENDPOINT DEFINITION FOR
2 CERTAIN FAST TRACK PRODUCTS.—

3 “(A) IN GENERAL.—If a drug meets the
4 criteria established in paragraph (1), the Sec-
5 retary—

6 “(i) may use a surrogate endpoint for
7 the approval of the drug as a fast track
8 product based on the existence of reason-
9 able scientific data that support and qual-
10 ify the relevance of the surrogate endpoint
11 to the disease state and treatment; and

12 “(ii) shall not require clinical treat-
13 ment data or other historical clinical data
14 on the surrogate endpoint as a prerequisite
15 to assessment of the surrogate endpoint
16 under this subsection if such data are not
17 available.

18 “(B) USE OF CLINICAL DATA.—

19 “(i) Subject to subparagraph (A)(ii),
20 in a surrogate endpoint assessment under
21 this subsection, the Secretary may take
22 into consideration any reliable clinical data
23 that are readily available and published.

24 “(ii) For a surrogate endpoint which
25 the Secretary decides to use in accordance

1 with subparagraph (A), nothing in this
2 subsection shall preclude the Secretary
3 from requiring clinical data that makes use
4 of the surrogate endpoint as a condition of
5 approval for the fast track product.

6 “(C) GUIDANCE AND CONSIDERATIONS.—

7 Not later than 1 year after the date of enact-
8 ment of the Unlocking Lifesaving Treatments
9 for Rare-Diseases Act, the Secretary shall issue
10 guidance providing details and options for
11 qualifying surrogate endpoints without clinical
12 data pursuant to this subsection. In qualifying
13 a surrogate endpoint under this subsection, the
14 Secretary shall take into account and balance
15 the following considerations:

16 “(i) The unmet need served by the
17 drug and the adverse effects of the rare
18 disease or condition on quality of life and
19 length of life.

20 “(ii) The very low likelihood that clin-
21 ical data would exist or that clinical stud-
22 ies would be completed to support a surro-
23 gate endpoint due to the small size of the
24 patient population in the United States
25 and other significant barriers inherent in

1 performing such clinical studies due to the
2 prevalence of the disease or related factors.
3 “(iii) The full scope of available basic
4 scientific data and information describing
5 the pathophysiology of the disease, mecha-
6 nism of action of the drug, biology of the
7 relevant disease pathway, information re-
8 garding the quality of the biomarker assay,
9 model treatment data, or other supportive
10 scientific information that the Secretary
11 deems reasonably predictive of a clinical
12 benefit in the absence of clinical data.”.

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