

114TH CONGRESS
1ST SESSION

H. R. 1576

To require a study by the Government Accountability Office (GAO) to assess the Food and Drug Administration's current regulatory pathway for reviewing generic versions of nonbiologic complex drug products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2015

Mr. BURGESS (for himself, Mr. BUTTERFIELD, Mr. ASHFORD, and Mr. BILL-
RAKIS) introduced the following bill; which was referred to the Committee
on Energy and Commerce

A BILL

To require a study by the Government Accountability Office (GAO) to assess the Food and Drug Administration's current regulatory pathway for reviewing generic versions of nonbiologic complex drug products, and for other purposes.

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 "Generic Complex
5 Drugs Safety and Effectiveness for Patients Act of 2015".

1 **SEC. 2. GAO STUDY OF SCIENTIFIC ISSUES REGARDING**
2 **THE CURRENT REGULATORY PATHWAY FOR**
3 **REVIEWING GENERIC VERSIONS OF CERTAIN**
4 **COMPLEX DRUG PRODUCTS.**

5 (a) STUDY BY GAO.—The Comptroller General of
6 the United States shall conduct a study to determine the
7 following:

8 (1) With respect to nonbiologic complex drug
9 products that have not been fully characterized (as
10 defined in subsection (e)(1)), whether the listing of
11 such drugs as reference products in generic drug ap-
12 plications presents unique challenges in meeting ap-
13 proval standards that are significantly different than
14 the challenges presented by generic drug applica-
15 tions that list small-molecule reference products.

16 (2) With respect to biological products that are
17 within the scope of the exception under section
18 7002(e)(2) of Public Law 111–148 (relating to tem-
19 porary authority for the approval of biological prod-
20 ucts under section 505 of the Federal Food, Drug,
21 and Cosmetic Act (21 U.S.C. 355)), whether the
22 listing of such biological products as reference prod-
23 ucts in generic drug applications presents unique
24 challenges in meeting approval standards that are
25 significantly different than the challenges presented

1 by generic drug applications that list small-molecule
2 reference products.

3 (3) If the answer to the question under para-
4 graph (1) or (2) is that significantly different chal-
5 lenges are presented for patients when reference
6 products are nonbiologic complex drug products that
7 have not been fully characterized or when reference
8 products are biological products that are within the
9 scope of the exception under section 7002(e)(2) of
10 Public Law 111–148:

11 (A) What degree of characterization of the
12 proposed generic version and the reference
13 product should be required in order to deter-
14 mine the safety and effectiveness of the generic
15 version.

16 (B) What degree of similarity should be re-
17 quired to deem that the active ingredient of the
18 proposed generic version is the same as the ac-
19 tive ingredient of the reference product.

20 (C) What types of evidence should be re-
21 quired to demonstrate that the proposed generic
22 version is bioequivalent to the reference prod-
23 uct.

24 (D) What requirements should be estab-
25 lished with respect to the comparability of the

1 manufacturing process for the proposed generic
2 version and the manufacturing process for the
3 reference product.

4 (E) Whether and to what extent clinical
5 evidence is needed to demonstrate that there is
6 no difference in immunogenicity between the
7 proposed generic version and the reference
8 product.

9 (F) Whether and to what extent other clin-
10 ical evidence is needed to demonstrate that the
11 proposed generic version is as safe and effective
12 for patients as the reference product.

13 (G) Taking into account the determina-
14 tions made regarding the issues listed in sub-
15 paragraphs (A) through (F):

16 (i) Whether section 505(j) of the Fed-
17 eral Food, Drug, and Cosmetic Act (21
18 U.S.C. 355(j)) should be amended to es-
19 tablish provisions that expressly address
20 the approval of copy versions of nonbio-
21 logic complex drug products that have not
22 been fully characterized, provisions that ex-
23 pressly address the approval of copy
24 versions of biological products that are
25 within the scope of the exception under

1 section 7002(e)(2) of Public Law 111–148,
2 or both.

3 (ii) Whether section 505(b)(2) of such
4 Act (21 U.S.C. 355(b)(2)) should be so
5 amended.

6 (iii) Whether such Act should other-
7 wise be so amended.

8 (iv) Whether section 351 of the Public
9 Health Service Act (42 U.S.C. 262) should
10 be so amended.

11 (H) Taking into account the determina-
12 tions made regarding the issues listed in sub-
13 paragraphs (A) through (F), and taking into
14 consideration all relevant guidances, draft guid-
15 ances, and other agency policy documents—

16 (i) whether the Food and Drug Ad-
17 ministration should develop and provide to
18 the public a policy document that provides
19 a comprehensive statement of general prin-
20 ciples on the evidence that is necessary to
21 obtain the approval of such Administration
22 for proposed generic versions of reference
23 products that are nonbiologic complex drug
24 products that have not been fully charac-
25 terized or that are biological products; and

1 (ii) if so, the date by which such Ad-
2 ministration could reasonably be expected
3 to issue such comprehensive policy docu-
4 ment.

5 (b) CONSULTATION.—The Comptroller General shall
6 conduct the study under subsection (a) in consultation
7 with—

8 (1) the Secretary of Health and Human Serv-
9 ices, acting through the Commissioner of Food and
10 Drugs; and

11 (2) appropriate public and private entities, in-
12 cluding patient advocacy organizations, professional
13 medical associations, hospital pharmacies, scientists
14 of academic and business organizations, and rep-
15 resentatives of the regulated industry.

16 (c) REQUIRED CONSIDERATION.—In carrying out the
17 study under subsection (a), the Comptroller General shall
18 consider the following:

19 (1) Published clinical reports of clinically mean-
20 ingful (including serious) adverse events of patients
21 to—

22 (A) generic versions of the nonbiologic
23 complex drug products that have not been fully
24 characterized;

- 1 (B) generic versions of biological products;
2 and
3 (C) the reference products.

4 (2) The specific criteria that have been used by
5 the Secretary to approve generic versions of nonbio-
6 logic complex drug products that have not been fully
7 characterized or generic versions of biological prod-
8 ucts.

9 (3) The specific criteria specified in guidances,
10 draft guidance, and other documents issued by the
11 Secretary regarding applications under section
12 351(k) of the Public Health Service Act (42 U.S.C.
13 262(k)) for the licensing of biosimilar biological
14 products.

15 (d) OPTIONAL CONSIDERATION.—In carrying out the
16 study under subsection (a), the Comptroller General may
17 under subsection (c) consider the following information
18 from foreign countries:

19 (1) Reports described in subsection (c)(1) from
20 foreign countries that are listed in clause (i) or (ii)
21 of section 802(b)(1)(A) of the Federal Food, Drug,
22 and Cosmetic Act (21 U.S.C. 382(b)(1)(A)) or are
23 designated pursuant to section 802(b)(1)(B) of such
24 Act (21 U.S.C. 382(b)(1)(B)).

1 (2) The guidelines or recommendations of the
2 pharmaceutical regulatory agencies of foreign coun-
3 tries described in paragraph (1) regarding any class
4 of products that such an agency regulates as a bio-
5 similar biological product, but that has been or could
6 be approved as a generic drug in the United States.

7 (3) Any instance where the Secretary or such
8 foreign regulatory agencies have, after approving a
9 generic version (or a foreign equivalent) of a nonbio-
10 logic complex drug product that has not been fully
11 characterized or a generic version (or a foreign
12 equivalent) of a biological product, sought a clinical
13 trial to confirm—

14 (A) the generic version (or foreign equiva-
15 lent) is therapeutically equivalent to the ref-
16 erence product (or meets a similar standard, in
17 the case of a foreign regulatory agency); or

18 (B) the safety and effectiveness of the ge-
19 neric version (or foreign equivalent).

20 (e) COMPLETION DATE.—Not later than the expira-
21 tion of the 2-year period beginning on the date of the en-
22 actment of this Act, the Comptroller General shall com-
23 plete the study under subsection (a) and submit a report
24 describing the findings and conclusions of the study to the
25 Secretary, the Committee on Energy and Commerce of the

1 House of Representatives, and the Committee on Health,
2 Education, Labor, and Pensions of the Senate.

3 (f) DEFINITIONS.—

4 (1) COMPLEX DRUG PRODUCT NOT FULLY
5 CHARACTERIZED.—For purposes of this section, the
6 terms “complex drug product that has not been fully
7 characterized” and “complex drug products that
8 have not been fully characterized”, with respect to a
9 nonbiologic drug, means a drug for which—

10 (A) the active ingredient has molecular di-
11 versity;

12 (B) scientific analytic methodologies are
13 unable to fully identify the molecular structures
14 and physiochemical properties of the active in-
15 gredient; and

16 (C) the nature of the active ingredient is
17 not understood sufficiently to identify—

18 (i) all the molecular components of
19 the drug that are involved in producing the
20 therapeutic effect; and

21 (ii) the mechanisms of action that
22 produce such effect.

23 (2) OTHER DEFINITIONS.—For purposes of this
24 section:

1 (A) The term “bioequivalent”, with respect
2 to a generic drug, has the meaning given such
3 term in section 505(j)(8)(B) of the Federal
4 Food, Drug, and Cosmetic Act (21 U.S.C.
5 355(j)(8)(B)).

6 (B) The term “generic drug” or “generic
7 version”, with respect to the United States,
8 means a drug that is approved under section
9 505(j) of the Federal Food, Drug, and Cos-
10 metic Act (21 U.S.C. 355(j)).

11 (C) The term “generic drug application”
12 means an abbreviated application for the ap-
13 proval of a new drug under section 505(j) of
14 the Federal Food, Drug, and Cosmetic Act (21
15 U.S.C. 355(j)).

16 (D) The term “proposed”, with respect to
17 a generic version, means subject to a generic
18 drug application that is pending before the
19 Food and Drug Administration.

20 (E) The term “reference product”, with re-
21 spect to a generic drug, has the meaning given
22 the term “listed drug” in section 505(j) of the
23 Federal Food, Drug, and Cosmetic Act (21
24 U.S.C. 355(j)).

1 (F) The term “Secretary” means the Sec-
2 retary of Health and Human Services.

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