June 8, 2012

The Honorable Tom Harkin
Chairman
United States Senate
Washington, DC 20510

The Honorable Mike Enzi
Ranking Member
United States Senate
Washington, DC 20510

The Honorable Fred Upton
Chairman
United States House of Representatives
Washington, DC 20515

The Honorable Henry A. Waxman
Ranking Member
United States House of Representatives
Washington, DC 20515

The Honorable Joseph R. Pitts
Chairman
United States House of Representatives
Washington, DC 20515

The Honorable Frank Pallone, Jr.
Ranking Member
United States House of Representatives
Washington, DC 20515

Dear Chairman Harkin, Ranking Member Enzi, Chairmen Upton and Pitts, and Ranking Members Waxman and Pallone:

On behalf of the undersigned organizations, we write to thank you for your bipartisan leadership on passage of legislation that renews and strengthens two vital pediatric drug laws, the Best Pharmaceuticals for Children Act (BPCA), the Pediatric Research Equity Act (PREA). As you work out the differences between the Senate and House-passed Food and Drug Administration (FDA) user fee bills, we urge you maintain several key provisions for children that are in one, but not both, bills.

**Neonates**

We ask that you maintain the requirements in the House bill that the FDA hire a neonatologist to work in the Office of Pediatric Therapeutics and be part of the Pediatric Review Committee. Additionally, we ask that you retain the provision in the House bill that requires BPCA written requests include neonatal studies unless the FDA provides a rationale for not requesting such studies. Despite the tremendous progress made for children in general as a result of BPCA and PREA, experts estimate that upwards of 90 percent of drugs used in neonates are used “off-label,” meaning that the drug label does not contain information on use in the neonatal population. Using a suboptimal dose of a drug in a neonate could lead to safety concerns or a lack of efficacy. Providers, therefore, must rely on adult data or data in older children, despite knowing that drugs frequently work very differently in neonates. While there are many difficulties in conducting research in the neonatal period (birth to one month), advances in neonatal pharmacology make further progress within reach.
The Institute of Medicine (IOM) in its 2012 report, *Safe and Effective Medicines for Children*, chronicled the continued gaps in drug data for neonates. Unfortunately, the IOM reported that BPCA and PREA have had limited impact for neonates. While BPCA, PREA and the Pediatric Rule have led to hundreds of pediatric label changes, the IOM found that only 6 percent of these label changes included neonates. The Government Accountability Office (GAO) in its 2011 report on BPCA and PREA noted the lack of neonatal expertise at the FDA. The IOM report questioned whether “sufficient expertise” in neonatology was utilized in the written requests it reviewed and suggested increased neonatology staff were needed “to specify the appropriate safety and efficacy endpoints, inclusion criteria, trial design, and other study elements” of neonatal drug research. The agency does not have a dedicated neonatologist to work across the agency to provide leadership and expertise so that neonates are appropriately represented in pediatric studies.

For these reasons, we enthusiastically support Sections 501(b)(1), 503 and 504 of the House bill and we ask that these provisions be included in the final FDA user fee legislation currently under consideration by the Senate and House.

*Transparency*

We strongly support Section 504 of the Senate bill and would ask that this provision be maintained in the final bill. Section 504 would require the Secretary, within three years of enactment, to make public the medical, statistical, and clinical pharmacology reviews of pediatric studies conducted under BPCA from 2002 until 2007, as well as the corresponding written requests. Although the provision is limited to only those studies for which exclusivity was granted and a labeling change made, it represents an important step forward that will help ensure the highest quality pediatric trials in the future. Since 2007, all medical, statistical, and clinical pharmacology reviews for pediatric studies conducted under BPCA are made public. Making public the reviews of studies in which children participated by enrolling in a clinical trial and companies were granted exclusivity is vital to informing future clinical trial design and increasing access to important pediatric information.

*Hatch-Waxman Clarification*

Lastly, we are supportive of Section 510 in the Senate bill which would clarify that labeling changes made under BPCA or PREA as a result of an inconclusive pediatric study or a study that did not demonstrate that a product is safe or effective do not qualify for three years of statutory Hatch-Waxman exclusivity. We agree that it is vitally important that product labeling inform providers as to whether the product was studied in children, even if the studies were inconclusive or did not demonstrate safety or efficacy. Providers use such
information in the labeling to inform their clinical decision-making. However, Hatch-Waxman exclusivity should be reserved for studies that lead to positive new information on the label. Section 510 of the Senate bill provides a helpful clarification that will ensure that the three-year exclusivity period provided for under Hatch-Waxman is applied to products studied under BPCA or PREA only when such studies include changes to the strength, dosage form, route of administration, or conditions of use for the drug product. This change will ensure that companies conducting pediatric studies have an extra incentive to pursue dosages and formulations that produce positive clinical benefits in children.

Thank you again for your commitment to improve drugs for all children.

Sincerely,

American Academy of Child and Adolescent Psychiatry
American Academy of Pediatrics
American Society of Pediatric Nephrology
American Psychiatric Association
American Thoracic Society
Arthritis Foundation
Children’s Defense Fund
Children’s Hospital Association
Elizabeth Glaser Pediatric AIDS Foundation
March of Dimes
National Association of Pediatric Nurse Practitioners
National Organization for Rare Disorders
Pediatric Infectious Diseases Society
Pediatric Pharmacy Advocacy Group
Society for Adolescent Health and Medicine