## Statement of the EveryLife Foundation for Rare Diseases

## House Energy & Commerce Subcommittee on Health Hearing: The Future of Medicine: Legislation to Encourage Innovation and Improve Oversight

## March 17, 2022

Chairwoman Eshoo, Ranking Member Guthrie and Members of the Committee: The EveryLife Foundation for Rare Diseases applauds you for convening this hearing to explore a number of legislative proposals intended to accelerate innovation of therapies, while ensuring appropriate levels of oversight. For nearly 15 years, the EveryLife Foundation for Rare Diseases has existed as a catalyst for the rare and ultra-rare patient and caregiver voice to work with legislators, including your Subcommittee, to achieve these goals.

The EveryLife Foundation was created to help advance the needed research that can lead to the development of treatments for the thousands of rare and ultra-rare diseases and conditions that today lack therapies. In the four decades since the passage of the landmark Orphan Drug Act, we have made significant progress in developing treatments for rare diseases. This progress has accelerated in recent years, with drugs designed to treat a rare disease or condition accounting for nearly 60 percent of products approved in 2020 by the Center for Drug Evaluation and Research (CDER). Despite these improvements, the painful reality is that more must be done for the majority of patients with rare diseases or conditions who have no disease-modifying therapies. As of today, only about 5% of the more than 7000 rare diseases have approved therapies. And of those with approved therapies, even fewer have proven to be curative. Our community is in dire need of innovations that match the urgency and unmet need of the Americans living with rare diseases[1].

Recognizing this reality, the EveryLife Foundation strongly supports a number of bills that are the subject of today's hearing beginning with H.R. 1730, the Speeding Therapy Access Today (STAT Act). The Foundation applauds Congressman Bilirakis and Congressman Butterfield for sponsoring this legislation and thanks the dozens of cosponsors for their support, including Energy & Commerce Committee Members, Lesko, Soto, Joyce, and O'Halleran. We also commend Senators Amy Klobuchar and Roger Wicker for leading the Senate companion bill (S. 670), and we hope today's hearing continues to move the STAT Act towards being enacted into law this Congress.

The EveryLife Foundation was privileged to work closely with our sponsors and committee staff over many months to develop this bill. The guiding objective was identifying a targeted set of provisions that, if enacted, could make a sizeable impact in accelerating development of rare disease treatments. With this in mind, we offer the following comments on specific components of this legislation.

**Rare Disease Center of Excellence**: A core piece of the STAT Act is the explicit authorization of a Food and Drug Administration (FDA) Intercenter Institute or Center of Excellence focused on rare diseases. This provision builds upon the authorization for such institutes contained in the 21st Century Cures Act and authorizes one focused on rare diseases and conditions. This provision seeks to build upon FDA's existing commitments to rare disease, particularly within CDER, by creating an FDA-wide function to house and further grow the agency's rare disease expertise. The aim is to ensure that such expertise is not siloed in a single review division or center and to apply the knowledge and learnings to rare disease needs wherever they lie in FDA. The goal is to prevent unnecessary duplication of resources and to further develop agency knowledge and expertise, particularly in the area of ultra-rare diseases, including trial design and trial metric for small population trials, manufacturing standards for small population therapies, overlapping or concurrent approaches to preclinical activities, and other regulatory science needs.

The STAT Act recognizes that FDA Centers of Excellence are not one-size-fits-all. As such, a Rare Disease Center of Excellence will not look exactly like the Oncology Center or any other existing center. Additionally, review and approval authority will continue to rest with the center and the divisions to which a candidate therapy is assigned.

The EveryLife Foundation has spent extensive amounts of time and resources on the concept of a Rare Disease Center of Excellence with thinking coming from all rare disease stakeholders including patients, clinicians, researchers, and manufacturers. We believe this concept builds upon FDA's actions over the past several years and that it presents the most appropriate model for housing all of FDA's rare disease expertise in a single home and for continuing to build and expand this regulatory knowledge and these capabilities. We have included a copy of a recently released white paper detailing the rationale and vision for a Rare Disease Center of Excellence along with today's statement.

**Ultra-Rare Disease Focus**: As noted above, the STAT Act also includes authorization of a specific program within the Center, known as the ALTITUDE Program, that focuses explicitly on the unique needs associated with therapies to treat very rare disease or conditions. We believe that this focus is necessary, given the many unique regulatory science needs associated with developing treatments for very small populations and, in some cases, for individuals. A focus on this set of issues will hopefully become even more necessary over the coming years as the benefits of precision medicine continue taking hold.

**Labels of Rare Disease Therapies**: The rare disease community has unfortunately encountered challenges in obtaining access to affordable rare disease therapies that are in line with the FDA's label for these therapies. This has been because of actions taken by payors to inappropriately limit access by narrowing the eligible population beyond what is indicated in the FDA-approved label. For example, in some instances, payors have authorized a treatment only for those patients who match the criteria of the population included in the clinical pivotal trial even when FDA's label is broader.

The EveryLife Foundation recognizes that few issues are as complex and important as a product's FDA label. That's why we support this provision within STAT that calls for FDA to organize a multi-stakeholder group to convene on this topic and produce a guidance document. Rather than prescribe an outcome in legislation, this provision simply authorizes a stakeholder and guidance process, in line with provisions in other laws such as multiple provisions in the 21st Century Cures Act. We believe that FDA needs to hear directly from stakeholders on both these challenges and potential solutions to address them.

**Early Engagement of Payors**: Building upon the comments above, the EveryLife Foundation recognizes that early conversations between therapy developers and payors is critical to achieving appropriate access, particularly for novel first-generation medications. We note that FDA's device center has an all-payor early feedback program to facilitate conversations between developers and payors on topics that can help lead to positive coverage decisions. We believe a similar early-payor feedback program is desperately needed for rare disease needs and that having these conversations early can help prevent or reduce post-approval coverage decisions that inappropriately limit patient access to therapies.

The EveryLife Foundation strongly supports this provision within the STAT Act that authorizes such a program and requires regular reporting on the impact of the program. We note that it is modeled upon the existing and successful CDRH program, which provides an important precedent for a rare disease-focused program within FDA. While it will be important to ensure appropriate guardrails are in place to preserve the distinct authorities afforded to FDA and CMS, we need a similar program to encourage and support dialogue with payors focused on rare diseases.

**Rare Disease Advisory Committee**: Given the myriad policy issues of interest to the rare disease community, the EveryLife Foundation strongly supports the provision within the STAT Act that would establish a Rare Disease and Condition Drug Advisory Committee. We see a significant need for assembling such a panel of external advisors to provide FDA with additional expertise and perspective in this field, but also not act as an additional obstacle to the drug review process. We note that FDA maintains a number of advisory committees that provide advice and counsel on cross-cutting issues that apply to multiple topics. Existing advisory committees of this nature include the Pediatric, Patient Engagement, and Risk Communication advisory committees.

An advisory panel on rare diseases and conditions would provide FDA with the external expertise needed to advise on both pending new drug applications – in tandem with the relevant human drug advisory committee – as well as on larger topics of relevance to the field, such as innovative trial designs for small populations and use of real-world evidence (RWE) to help satisfy post-approval requirements. We strongly support authorization of such a committee as a component of the STAT Act.

**Funding to Support Rare Disease Regulatory Science Research**: The EveryLife Foundation recognizes that there is a need to continue building the body of knowledge associated with rare

diseases and conditions. The Foundation has routinely supported efforts to increase appropriations for existing programs that help fund orphan drug clinical trials as well as rare disease natural history studies. We believe additional needs exist, including support for regulatory science activities pertaining to development of therapies to treat very small populations. As such, we strongly support the provision within STAT that authorizes such regulatory science research.

**Other Legislation**

In addition to the STAT Act, the EveryLife Foundation is pleased that the hearing will include other bills of interest to the rare disease community. These include:

- The Cures 2.0 Act, H.R. 6000, which would include authorization of a rare disease Center of Excellence and contains several other rare disease-focused provisions;

- The Helping Experts Accelerate Rare Treatments (HEART) Act, H.R. 6888, which would enhance reporting on rare disease activities and authorize a GAO study of the European Union's best practices in handling rare disease applications; and

- The Better Empowerment Now to Enhance Framework and Improve Treatments Act of 2021 (BENEFIT) Act, H.R. 4472, which would build upon existing law and policies to ensure patient experience data is fully reflected as part of FDA's benefit-risk regulatory framework.

- The Advanced Research Project Agency-Health (ARPA-H) Act, H.R. 5585, which would establish a new, collaborate agency within the Department of HHS to catalyze the development of high-impact, novel treatments, diagnostics, cures, and preventative measures for communities with significant unmet need.

- The Diversifying Investigations Via Equitable Research Studies for Everyone Trials (DIVERSE) Act, H.R. 5030, and the Diverse and Equitable Participation in Clinical Trials (DEPICT) Act, H.R. 6584, which would enhance clinical trial diversity by decentralizing trials and making participation easier and more accessible.

We urge the Committee to promptly move forward with markups on each of these bills so that like the STAT Act they can become law this Congress.

**Comments on Accelerated Approval**

The EveryLife Foundation recognizes the ongoing discussions pertaining to the utilization of the Accelerated Approval (AA) pathway and support evidence-based approaches to protect and strengthen this life-saving regulatory pathway. The AA pathway is an FDA review pathway limited to treatments for serious and often fatal illnesses with few, if any, options in which therapy development is based upon

validated surrogate endpoints, backed by science. The rare disease community is grateful to Congress for the creation of a regulatory pathway that enables approvals based on surrogate endpoints that can often more accurately capture real-time disease progression or improvement, while requiring the same regulatory standard for approval as is applied to all regulatory reviews.

We recognize the importance of ensuring that post-approval confirmatory studies are conducted in a timely manner, while acknowledging that the complexities of rare disease therapy development further complicate the design and implementation of such studies. We further recognize the concerns of payors – including public payors – about situations in which such studies are delayed for lengthy periods of time, and we believe patients deserve to know that a therapy is indeed efficacious.

As Congress considers legislation to strengthen the Accelerated Approval pathway, we caution against any actions that could undermine the intent of the program and exacerbate situations in which payors refuse to cover drugs approved under the pathway. Policies that regard Accelerated Approval medications as experimental may only further exacerbate health inequity among communities eligible for potentially life-altering and lifesaving medications. As the Institute for Clinical and Economic Review (ICER) noted in its April 2021 whitepaper, more than 75 percent of drugs approved from 1992 to 2016 via the Accelerated Approval pathway converted to full approval.

EveryLife supports provisions that would improve transparency and reporting on post-approval studies. We also support clarifying the statute further to include the use of RWE to satisfy confirmatory study requirements. Additionally, we note that executing confirmatory studies in rare disease populations is often complex and that additional guidance and direction on this topic, as well as earlier formalized engagement between FDA and sponsors around confirmatory trial design are needed to facilitate such studies in a timely manner. We urge Congress to recognize this reality and to not take any actions that could jeopardize the use of this pathway for the rare disease community going forward. Ultimately, the Foundation supports making the necessary reforms without undercutting access to this pathway.

**Conclusion**

In closing, the EveryLife Foundation for Rare Diseases thanks you again for convening this legislative hearing and for considering the STAT Act and other rare disease-focused bills on the agenda. We urge the committee to promptly move toward subcommittee and full committee markups of the STAT Act and the other legislation we have endorsed. And we stand ready to assist the committee as you continue considering these and other policies relevant to all impacted by rare disease.

1. https://rarediseases.info.nih.gov/diseases/fda-orphan-drugs