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# Diversity Action Plans to Improve Enrollment of Participants from Underrepresented Populations in Clinical Studies

## Guidance for Industry

### ***DRAFT GUIDANCE***

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**June 2024  
Clinical/Medical**

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1      **Diversity Action Plans to Improve Enrollment of Participants from**  
2      **Underrepresented Populations in Clinical Studies**  
3      **Guidance for Industry<sup>1</sup>**  
4

5      This draft guidance, when finalized, will represent the current thinking of the Food and Drug  
6      Administration (FDA or Agency) on this topic. With the exception of certain portions of section VII, it  
7      does not establish any rights for any person and is not binding on FDA or the public. You can use an  
8      alternative approach if it satisfies the requirements of the applicable statutes and regulations. To discuss  
9      an alternative approach, contact the FDA staff responsible for this guidance as listed on the title page.  
10

12     **I. INTRODUCTION**  
13

14     This guidance is intended to assist sponsors conducting certain clinical studies involving drugs,<sup>2</sup>  
15     biological products, and devices to meet requirements for the submission of Diversity Action  
16     Plans under section 505(z) and section 520(g)(9) of the Federal Food, Drug, and Cosmetic Act  
17     (FD&C Act) as added by section 3601 of the Food and Drug Omnibus Reform Act of 2022  
18     (FDORA).<sup>3</sup> Specifically, sections 505(z)(3) and 520(g)(9)(A) of the FD&C Act require that  
19     sponsors submit Diversity Action Plans for certain clinical studies in the form and manner  
20     specified by FDA in guidance. Diversity Action Plans are intended to increase enrollment of  
21     participants who are members of historically underrepresented populations in clinical studies to  
22     help improve the strength and generalizability of the evidence for the intended use population.  
23     Such plans must specify “the sponsor’s goals for enrollment in [a] clinical study,” “the sponsor’s  
24     rationale for such goals”, and include “an explanation of how the sponsor intends to meet those  
25     goals.”<sup>4</sup> The Secretary is required to update or issue guidance to sponsors regarding the format  
26     and content of their Diversity Action Plan pertaining to clinical study enrollment goals  
27     “disaggregated by age group, sex<sup>5</sup>, and racial and ethnic demographic characteristics of clinically  
28     29

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<sup>1</sup> This guidance has been prepared by the Oncology Center of Excellence (OCE) in collaboration with the Center for Drug Evaluation and Research (CDER), the Center for Biologics Evaluation and Research (CBER), the Center for Devices and Radiological Health (CDRH), the Office of Women’s Health (OWH), and the Office of Minority Health and Health Equity (OMHHE) at the Food and Drug Administration.

<sup>2</sup> In this guidance, use of term “drug” refers to both human drugs approved under section 505 of the FD&C Act (21 U.S.C. 355) and biological products licensed under section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262) that are regulated as drugs.

<sup>3</sup> See the Food and Drug Omnibus Reform Act of 2022 (FDORA) included as part of the Consolidated Appropriations Act (December 2022) (P.L. 117-328).

<sup>4</sup> See section 505(z)(2) of the FD&C Act for drugs and section 520(g)(9)(B) of the FD&C Act for devices.

<sup>5</sup> See section 3602(a)(1) of FDORA. For the purposes of this guidance, “sex” is a biological construct based on anatomical, physiological, hormonal, and genetic (chromosomal) traits, and is generally assigned based on anatomy at birth typically categorized as male or female, but variations occur. Variations of sex refers to differences in sex development or intersex traits. See *Measuring Sex, Gender Identity, and Sexual Orientation* (2022). National Academies of Science, Engineering, and Medicine. Washington, DC: The National Academies Press.

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30 relevant study populations.”<sup>6</sup> Section 3604 of FDORA also requires that FDA annually submit to  
31 Congress, and publish on the Agency’s website, a report that summarizes in the aggregate the  
32 Diversity Action Plans received and whether the clinical studies conducted met the demographic  
33 enrollment goals from the submitted Diversity Action Plans.

34  
35 FDA is issuing this guidance to satisfy section 3602 of FDORA which requires that FDA update  
36 or issue guidance relating to the format and content of Diversity Action Plans required by  
37 sections 505(z) and 520(g)(9) of the FD&C Act.<sup>7</sup> This guidance describes the format and content  
38 of Diversity Action Plans, including the timing and process for submitting such plans by  
39 application or notification type. Additionally, this guidance describes the criteria and process by  
40 which FDA will evaluate sponsors’ requests for waivers from section 505(z) or 520(g)(9) of the  
41 FD&C Act. This guidance also provides general recommendations for sponsors who may wish to  
42 publicly post key information regarding their Diversity Action Plans. This guidance replaces the  
43 draft guidance for industry titled *Diversity Plans to Improve Enrollment of Participants from  
Underrepresented Racial and Ethnic Populations in Clinical Trials* (April 2022). This guidance  
44 is not intended to address all issues related to the clinical development of medical products<sup>8</sup> such  
45 as the design of clinical studies, clinical study endpoints, or the data necessary to support a  
46 marketing submission; sponsors should refer to the appropriate FDA guidance documents for  
47 FDA recommendations on these matters.

48  
49 Per section 3602(c) of FDORA, the requirements for Diversity Action Plans apply to clinical  
50 studies for which enrollment commences after 180 days from the publication of the final  
51 guidance. Because sponsors engage in study planning and implementing study activities prior to  
52 when enrollment commences, FDA does not expect a Diversity Action Plan to be submitted for  
53 clinical studies where the following circumstances are present:

- 54
- 55     • Clinical studies of drugs with protocols submitted within 180 days following the  
56         publication of the final guidance where enrollment is scheduled to begin 180 days after  
57         publication of the final guidance.
  - 58     • Clinical studies of devices received by FDA in Investigational Device Exemption (IDE)  
59         applications within 180 days after publication of the final guidance.
  - 60     • Clinical studies of devices that do not require an IDE application to be submitted to FDA  
61         that are approved by an institutional review board (IRB) or independent ethics committee  
62         (IEC) within 180 days after the date of publication of the final guidance.

63  
64 In general, FDA’s guidance documents do not establish legally enforceable responsibilities.  
65 Instead, guidance describes the Agency’s current thinking on a topic and should be viewed only  
66 as recommendations, unless specific regulatory or statutory requirements are cited. The use of  
67

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<sup>6</sup> See section 3602(a) of FDORA. Goals for enrollment, as described below, are intended to improve the generalizability of study results and the potential detection of clinically important differences across populations (when present) by reflecting the patient population with the disease or condition in the US that is expected to use the medical product if approved, licensed, authorized, cleared, or classified.

<sup>7</sup> Section 3602(b) of FDORA.

<sup>8</sup> For the purposes of this guidance, use of term “medical product” refers to human drugs (including human biological products that are regulated as drugs) and devices.

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68 the word *should* in Agency guidance's means that something is suggested or recommended, but  
69 not required.

70  
71 An exception to this framework derives from the requirement in section 3601 of FDORA for  
72 FDA to specify in guidance, the form and manner for the submission of Diversity Action Plans.  
73 Accordingly, insofar as section VII of this document specifies the form and manner<sup>9</sup> for  
74 submission of a Diversity Action plan, it will have binding effect, once this guidance is finalized,  
75 as indicated by the use of the words, *must*, *shall*, or *required*.

## **II. BACKGROUND**

76  
77 Clinical studies characterize the safety and effectiveness of medical products intended for the  
78 prevention, treatment, mitigation, cure, or diagnosis of many conditions or diseases. Some  
79 populations in the United States (U.S.) are frequently underrepresented<sup>10</sup> in biomedical research,  
80 including clinical studies, even when they bear a disproportionate burden for certain conditions  
81 or diseases relative to their proportional representation in the general population. There are  
82 myriad reasons for this, including but not limited to assumptions regarding the feasibility of  
83 enrolling a population in a clinical study that is representative of the intended use population and  
84 the impact on study timelines, and the lack of the prospective development and implementation  
85 of a strategy that helps ensure enrollment and retention of a clinical study population  
86 representative of the intended use population. Efficient development and approval/clearance of  
87 medical products is a highly desirable goal for the public, sponsors, and the FDA, underscoring  
88 the importance of prospectively defining the approach to generating data for a broader and more  
89 representative population early in the clinical development program.<sup>11</sup> Consistent  
90 implementation of actions to improve representativeness in clinical studies can support more  
91 equitable and timely access to medical discoveries and innovations, improve the generalizability  
92 of results across the intended patient populations, improve our understanding of the disease  
93 and/or medical product under study, and inform the safe and effective use of the medical product  
94 for all patients.

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<sup>9</sup> FDA interprets the term “manner” in section 3601 of FDORA to include the process for submission of the Diversity Action Plans.

<sup>10</sup> Consistent with section 3602(a) of FDORA, this guidance focuses on underrepresented populations based on race, ethnicity, sex, and age group, but FDA notes that there are other underrepresented populations that sponsors may consider, such as pregnant or lactating individuals. See section 3602(a) of FDORA. Generally, for race and ethnicity, underrepresented populations may typically include participants who are Black or African Americans, Hispanic/Latinos, Indigenous and Native American, Asian, Native Hawaiian and Other Pacific Islanders, and other persons of color. Generally, for sex and age, underrepresented populations may typically include participants who are females and in the older adult and pediatric age groups, respectively. See, e.g., National Academies of Sciences, Engineering, and Medicine. 2022. *Improving Representation in Clinical Trials and Research: Building Research Equity for Women and Underrepresented Groups*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26479>; Executive Order 14120, Advancing Women’s Health Research and Innovation (89 FR 20095, March 18, 2024).

<sup>11</sup> Fashoyin-Aje L, Beaver J, Pazdur R. Promoting Inclusion of Members of Racial and Ethnic Minority Groups in Cancer Drug Development. *JAMA Oncol*. 2021 Oct 1;7(10):1445-1446 and, Fashoyin-Aje L, Tendler C, Lavery B, et al. Driving Diversity and Inclusion in Cancer Drug Development – Industry and Regulatory Perspectives, Current Practices, Opportunities, and Challenges. *Clin Cancer Res*. Jun 28, 2023.

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- 99 FDA has issued several guidance documents to provide recommendations addressing measures  
100 to enroll representative populations with respect to specific demographic factors (e.g., race,  
101 ethnicity, sex, age group), and general measures that enhance diversity in clinical studies (e.g.,  
102 broadening of eligibility criteria)<sup>12,13</sup> when scientifically appropriate, including in the post-  
103 approval setting.<sup>14</sup> Scientific experts and stakeholders have also provided recommendations on  
104 strategies to ensure diverse clinical study participation<sup>15,16</sup> and to improve evidence generation  
105 for the population for which the medical product is being developed. Such measures include  
106 starting with intention and deliberateness to achieve study population representativeness as part  
107 of the clinical and operational strategy.
- 108
- 109 In general, clinical study diversity helps ensure that clinical studies appropriately test the product  
110 in a representative sample of the product's intended use population. Factors to consider when  
111 setting enrollment goals include demographic characteristics (e.g., race, ethnicity, sex, age  
112 group<sup>17</sup>), clinical characteristics (e.g., presence of comorbidities, disease etiology), and other  
113 characteristics (e.g., access to standard preventive and diagnostic care, access to standard  
114 treatments of the clinically relevant population). FDA has published guidance with  
115 recommendations for the inclusion of certain populations (e.g., females, including individuals

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<sup>12</sup> See the following guidance documents for industry: Draft guidance for industry *Collection of Race and Ethnicity Data in Clinical Trials and Clinical Studies for FDA-Regulated Medical Products* (January 2024). In March 2024, the Office of Management and Budget (OMB) published a set of revisions to *Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity* to reflect new recommendations for race and ethnicity categories. FDA's draft guidance was issued prior to OMB's revisions. When finalizing the guidance, FDA intends to update the racial and ethnicity categories consistent with the revisions to OMB Policy Directive No. 15. When final, this guidance will represent FDA's current thinking on this topic. See also *Enhancing the Diversity of Clinical Trial Populations — Eligibility Criteria, Enrollment Practices, and Trial Designs* (November 2020); and *Evaluation and Reporting of Age-, Race-, and Ethnicity-Specific Data in Medical Device Clinical Studies* (September 2017), and *Evaluation of Sex-Specific Data in Medical Device Clinical Studies* (August 2014).

<sup>13</sup> See series of guidance for industry regarding eligibility criteria for medical products regulated by CDER and CBER for the treatment of cancer including *Cancer Clinical Trial Eligibility Criteria: Brain Metastases* (July 2020), *Cancer Clinical Trial Eligibility Criteria: Patients with Organ Dysfunction or Prior or Concurrent Malignancies* (July 2020), *Cancer Clinical Trial Eligibility Criteria: Patients with HIV, Hepatitis B Virus, or Hepatitis C Virus Infections* (July 2020), *Cancer Clinical Trial Eligibility Criteria: Minimum Age Considerations for Inclusion of Pediatric Patients* (July 2020) and the Guidance for Industry *Male Breast Cancer: Developing Drugs for Treatment* (August 2020).

<sup>14</sup> See draft guidance for industry *Postmarketing Approaches to Obtain Data on Populations Underrepresented in Clinical Trials for Drugs and Biological Products* (August 2023). When final, this guidance will represent the FDA's current thinking on this topic.

<sup>15</sup> See Cancer Disparities Progress Report 2020: Achieving the bold vision of health equity for racial and ethnic minorities and other underserved populations. American Association for Cancer Research; ©2020. Available at <https://cancerprogressreport.aacr.org/disparities/>.

<sup>16</sup> National Academies of Sciences, Engineering, and Medicine. 2022. Improving Representation in Clinical Trials and Research: Building Research Equity for Women and Underrepresented Groups. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26479>.

<sup>17</sup> For the purposes of this guidance, age group representativeness refers to the inclusion of study participants from the entire age spectrum relevant to the disease or condition under study that the product is intended to treat.

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116 who are pregnant and lactating; older adults; pediatric populations) in clinical studies.<sup>18,19</sup>  
117 Moreover, FDA regulations require Investigational New Drug (IND) application holders to  
118 include in their annual reports, among other things, the total number of subjects initially planned  
119 for inclusion in a clinical study and the number entered into the study to date, tabulated by race,  
120 gender, and age.<sup>20</sup> In addition, a new drug application (NDA) must present effectiveness and  
121 safety data by race, gender, and age and must identify any modifications of dose or dose interval  
122 needed for a specific subgroup.<sup>21</sup> For certain pediatric studies, FDA must take into account the  
123 adequate representation of children of ethnic and racial minorities.<sup>22</sup>

124  
125 Consistent with section 3602(a) of FDORA, this guidance primarily focuses on Diversity Action  
126 Plans for the enrollment and retention of a clinically relevant study population, to help ensure  
127 adequate representativeness of study participants that reflect different age groups, sexes, and  
128 racial and ethnic demographic characteristics. However, FDA recognizes the broader issues  
129 regarding health disparities and differential access to health care and clinical studies that may  
130 occur based on other factors, including but not limited to geographic location, gender identity,  
131 sexual orientation,<sup>23,24</sup> socioeconomic status (SES), physical and mental disabilities,  
132 pregnancy status,<sup>25</sup> lactation status,<sup>27</sup> and co-morbidity. As applicable, FDA encourages  
133 sponsors to consider such additional factors, which may support subgroup analyses, when  
134 developing Diversity Action Plan enrollment goals. For example, a sponsor developing a  
135 Diversity Action Plan that specifies enrollment goals disaggregated or tabulated by race,  
136 ethnicity, sex, and age group, should also consider the potential that pregnant or lactating  
137 individuals with the condition or disease may use the medical product.

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<sup>18</sup> See the following guidances for industry: *Guideline for the Study and Evaluation of Gender Differences in the Clinical Evaluation of Drugs* (July 1993), *Evaluation of Sex-Specific Data in Medical Device Clinical Studies* (August 2014), *Guideline for the Study of Drugs Likely to be Used in the Elderly* (November 1989), *E7 Studies in Support of Special Populations: Geriatrics Questions and Answers* (February 2012), *Providing Information about Pediatric Uses of Medical Devices* (May 2014), and *Premarket Assessment of Pediatric Medical Devices* (March 2014). See the following two draft guidances for industry: *Pregnant Women: Scientific and Ethical Considerations for Inclusion in Clinical Trials* (April 2018) and *Clinical Lactation Studies: Considerations for Study Design Guidance for Industry* (May 2019). When final, these guidances will represent the FDA's current thinking on these topics.

<sup>19</sup> See draft guidance for industry, sponsors, and IRBs *Ethical Considerations for Clinical Investigations of Medical Products Involving Children* (September 2022). When final, this guidance will represent the FDA's current thinking on this topic.

<sup>20</sup> See 21 CFR 312.33(a)(2). Note that we consider the term “gender” in this regulation to mean “sex.”

<sup>21</sup> See 21 CFR 314.50(d)(5)(v) and (vi). Note that we consider the term “gender” in this regulation to mean “sex.”

<sup>22</sup> See section 505A(d)(1)(A) of the FD&C Act.

<sup>23</sup> National Academies of Sciences, Engineering, and Medicine. 2020. Understanding the Well-Being of LGBTQI+ Populations. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25877>.

<sup>24</sup> Alpert A, Brewer J, Adams S, Rivers L, Orta S, Blosnich J, Miedlich S, Kamen C, Dizon D, Pazdur R, Beaver J, Fashoyin-Aje L. Addressing Barriers to Clinical Trial Participation for Transgender People With Cancer to Improve Access and Generate Data. *J Clin Oncol*. 2022 Oct 27; JCO2201174.

<sup>25</sup> See footnote 23.

<sup>26</sup> See *Task Force on Research Specific to Pregnant Women and Lactating Women (PRGLAC)* available at Task Force on Research Specific to Pregnant Women and Lactating Women (PRGLAC) | NICHD - Eunice Kennedy Shriver National Institute of Child Health and Human Development (nih.gov)  
<https://www.nichd.nih.gov/about/advisory/PRGLAC#:~:text=The%2021st%20Century%20Cures%20Act,back%20o%20the%20HHS%20Secretary>.

<sup>27</sup> Ibid.

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140 **III. CLINICAL STUDIES REQUIRING DIVERSITY ACTION PLANS**

141

142 Under sections 505(z) and 520(g)(9) of the FD&C Act, submission of a Diversity Action Plan is  
143 required for certain clinical studies regarding drugs, biological products, and devices subject to  
144 sections 505, 515, 510(k), 513(f)(2), or 520(g) of the FD&C Act (21 U.S.C. 355; 360e; 360 (k);  
145 360c(f)(2) and 360j(g)), or section 351(a) of the Public Health Service Act 19 (42 U.S.C.  
146 262(a)).

147 For drugs, a Diversity Action Plan is required for a clinical investigation of a new drug that is a  
148 phase 3 study (as defined in 21 CFR 312.21), or as appropriate, another pivotal clinical study of a  
149 drug (other than a bioavailability or bioequivalence study).<sup>28,29</sup>

150 For devices, a Diversity Action Plan must be included in the Investigational Device Exemption  
151 (IDE) application for clinical studies of the device. An IDE application is required if the sponsor  
152 intends to use a significant risk (SR) device (as defined in 21 CFR 812.3(m)) in an investigation,  
153 intends to conduct an investigation that involves an exception from informed consent under 21  
154 CFR 50.24, or if FDA notifies the sponsor that an application is required for an investigation.<sup>30</sup>

155 For devices for which an IDE application to FDA is not required, except for a device being  
156 studied as described in 21 CFR 812.2(c), section 520(g)(9)(A)(ii) requires sponsors to develop a  
157 Diversity Action Plan for any clinical study with respect to the device.<sup>31</sup> Diversity Action Plans  
158 for these devices must be submitted to FDA in any premarket notification,<sup>32</sup> request for  
159 classification,<sup>33</sup> or application for premarket approval<sup>34</sup> under section 510(k), 513(f)(2), or 515  
160 of the FD&C Act, respectively.<sup>35</sup>

161 For devices, there are many types of clinical studies that may be conducted as part of the  
162 premarket process, representing different stages of device development and testing.<sup>36</sup>  
163 Additionally, not all device studies will require submission of an IDE application to FDA; for  
164 example, a study may be nonsignificant risk (NSR) and in compliance with 21 CFR  
165 812.2(b)(1)(i) – (vii) or a study may be conducted completely outside the U.S. in such a way that

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<sup>28</sup> See Section 505(z)(1) of the FD&C Act.

<sup>29</sup> 21 CFR 312.21(c) states that “Phase 3 studies are expanded controlled and uncontrolled trials.”

<sup>30</sup> 21 CFR 812.20(a).

<sup>31</sup> Although medical device postmarketing clinical studies are outside the scope of this guidance, FDA considers diversity and representative patient enrollment to be important in postmarketing clinical studies of devices. We note that under sections 515, 519, and 522 of the FD&C Act, FDA has authority to require certain enrollment expectations for post-approval and postmarket surveillance studies.

<sup>32</sup> See 21 CFR 807.81.

<sup>33</sup> See section 513(f)(2) of the FD&C Act.

<sup>34</sup> See 21 CFR 814.20.

<sup>35</sup> In general, FDA believes that device studies that will require the submission of a Diversity Action Plan will be among those device clinical studies required to register via ClinicalTrials.gov under 42 CFR Part 11.

<sup>36</sup> For additional information on types of medical device studies, see guidance documents for industry and FDA staff *Design Considerations for Pivotal Clinical Investigations for Medical Devices* (November 2013) and *Investigational Device Exemptions (IDEs) for Early Feasibility Medical Device Clinical Studies, Including Certain First in Human (FIH) Studies* (October 2013).

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166 submission of an IDE application is not needed.<sup>37</sup> FDA acknowledges that a Diversity Action  
167 Plan may not be particularly meaningful for certain device studies, such as for small studies  
168 conducted during the exploratory clinical stage. Notwithstanding this point, FDA expects  
169 sponsors to develop a Diversity Action Plan for a study that is intended to serve as the primary  
170 basis for FDA's evaluation of safety and effectiveness and benefit-risk determination. As such,  
171 while Section 520(g)(9) of the FD&C Act refers to clinical studies broadly, FDA does not intend  
172 to receive or review Diversity Action Plans for studies that are not designed to collect definitive  
173 evidence of the safety and effectiveness of a device for a specified intended use. A study that is  
174 exempt from the requirements of the IDE regulations under 21 CFR 812.2(c) does not require the  
175 development or submission to FDA of a Diversity Action Plan regardless of whether it is  
176 intended to serve as the primary basis for FDA's evaluation of safety and effectiveness and  
177 benefit-risk determination.

178 While sponsors are required to submit a Diversity Action Plan for the studies specified above,  
179 FDA strongly recommends that sponsors develop and implement a comprehensive diversity  
180 strategy across the entire clinical development program, including in early studies, when  
181 possible.

182

183

184 **IV. ADDRESSING RACE, ETHNICITY, SEX, AND AGE GROUP IN DIVERSITY**

185 **ACTION PLANS**

186

187 As described above, sections 505(z) and 520(g)(9) of the FD&C Act require that sponsors submit  
188 a Diversity Action Plan that specifies goals for clinical study enrollment, and FDORA states that  
189 such goals must be disaggregated by the race, ethnicity, sex, and age group demographic  
190 characteristics of the clinically relevant population.<sup>38</sup> When developing these goals, sponsors  
191 should consider the distribution of the intended use population according to these demographic  
192 characteristics.

193 Sponsors should consider whether certain demographic groups (e.g., older patients, pediatric  
194 patients, females, a particular race or ethnic group or combinations thereof) may have a different  
195 response to the medical product—either differential effectiveness or safety (e.g., based upon  
196 differential pharmacokinetics (PK), pharmacodynamics (PD), or due to possible differences in  
197 susceptibility to specific adverse events of concern for a drug or medical device), or due to  
198 differential presentation of the disease or condition. In some cases, it may be necessary to  
199 increase the proportional enrollment of a certain population in the clinical study to evaluate  
200 outcomes of interest or other clinically relevant factors in that group.

201

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<sup>37</sup> See 83 FR 7366, Human Subject Protection: Acceptance of Data From Clinical Investigations for Medical Devices.

<sup>38</sup> Sections 505(z)(2) and 520(g)(9)(B) of the FD&C Act; see also section 3602 of FDORA.

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202 Sponsors developing Diversity Action Plans should refer to other FDA guidance documents for  
203 additional recommendations relevant to sex and age considerations for clinical study  
204 enrollment.<sup>39</sup>

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206

### **V. CONTENT OF THE DIVERSITY ACTION PLAN**

209 Under sections 505(z) and 520(g)(9) of the FD&C Act, a Diversity Action Plan must include:<sup>40</sup>

- 210 • the sponsor’s goals for enrollment in the clinical study, disaggregated by race, ethnicity,  
211 sex, and age group of clinically relevant study populations,  
212 • the sponsor’s rationale for such goals, and,  
213 • the sponsor’s explanation of how the sponsor intends to meet such goals.

214

215 This section of the guidance describes the form and content of a Diversity Action Plan and  
216 provides recommendations that may be helpful in ensuring that the requirements of a Diversity  
217 Action Plan are met. While the requirements and recommendations described in this guidance  
218 are significantly aligned across drugs and devices, the types of submissions in which Diversity  
219 Action Plans must be provided, and timing of these submissions differ between drugs and  
220 devices under the FD&C Act. These different submission types may reflect different stages of  
221 the overall clinical development program for a medical product, and each type of submission is  
222 governed by unique statutory and regulatory requirements as well as different administrative  
223 considerations and review practices. As such, some of the requirements and recommendations  
224 for Diversity Action Plans differ for device submissions compared to drug submissions.

225  
226

#### **A. Enrollment Goals**

227 A Diversity Action Plan must include the sponsor’s enrollment goals for a clinical study,  
228 disaggregated by the race, ethnicity, sex, and age group of the clinically relevant study  
229 population.<sup>41</sup> Sponsors must present their enrollment goals across subsets of the population with  
230 these demographic characteristics (e.g., for race: Asian, Black/African American, etc.).<sup>42</sup> These  
231 demographic characteristics are summarized in Table 1.

232 Generally, enrollment goals should be informed by the estimated prevalence or incidence of the  
233 disease or condition in the U.S. intended use population for which the medical product is being

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<sup>39</sup> See the following guidances for industry: *Enhancing the Diversity of Clinical Trial Populations – Eligibility Criteria, Enrollment Practices, and Trial Designs* (November 2020); *ICH E7: Guideline for Industry: Studies in Support of Special Populations: Geriatrics*. (August 1994); *ICH E11 Clinical Investigation of Medicinal Products in the Pediatric Population* (December 2000); *ICH E11(R1) Addendum: Clinical Investigation of Medicinal Products in the Pediatric Population* (April 2018); *ICH E7 Studies in Support of Special Populations: Geriatrics Questions and Answers* (March 2012); *Considerations for the Inclusion of Adolescent Patients in Adult Oncology Clinical Trials* (March 2019); *Inclusion of Older Adults in Cancer Clinical Trials* (March 2022). See also the draft guidance for industry *Geriatric Information in Human Prescription Drug and Biological Product Labeling* (September 2020); when final, this guidance will represent the FDA’s current thinking on this topic.

<sup>40</sup> See footnote 6; see also sections 505(z)(2) and 520(g)(9)(B) of the FD&C Act.

<sup>41</sup> Sections 505(z)(2) and 520(g)(9)(B) of the FD&C Act; see also section 3602 of FDORA.

<sup>42</sup> See footnote 40.

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234 studied. FDA recognizes that in some cases, increased enrollment (i.e., greater than proportional)  
235 of certain populations may be needed to elucidate potential clinically important differences in  
236 drug or medical device response between subsets of the study population. A rationale must be  
237 provided for the proposed enrollment goals, including when such goals may deviate from the  
238 estimated prevalence or incidence of a disease or condition in the intended use population.<sup>43</sup>  
239 Sponsors must provide in the Diversity Action Plan a description of the general approach and  
240 rationale,<sup>44</sup> which should include methodology used to derive target enrollment goals.

241 FDA recognizes that sponsors may, as part of their clinical development program, plan to  
242 conduct several clinical studies to support marketing authorization of a medical product that may  
243 be subject to Diversity Action Plan requirements. In such cases, the sponsor's enrollment goals  
244 specified in the Diversity Action Plan for each study should consider how individual clinical  
245 studies may fit into an overall clinical development program for the medical product (i.e., for a  
246 particular indication or intended use), and how such individual studies should help generate data  
247 representing the clinically relevant population's demographic characteristics consistent with the  
248 incidence or prevalence in the disease population for the program. In such a situation, the  
249 Diversity Action Plan for each clinical study should reflect a strategy that leads to an overall  
250 proportionate representation, even though individual clinical studies may not have proportionate  
251 representation.

252 FDA recognizes that certain development programs (e.g., rare diseases), may include a single,  
253 small pivotal study. Despite enrolling a representative population in that study, participant  
254 numbers may be small, potentially precluding the detection of any differences in safety and  
255 effectiveness across the study population, should they exist, or limiting the sponsor's ability to  
256 conduct a robust assessment of observed differences. However, consistent representative  
257 enrollment may provide opportunities for hypothesis generation and further study.

258 Whenever possible, sponsors should utilize appropriate available sources (e.g., certain registries  
259 that are reasonably expected to be demographically representative, publicly available  
260 epidemiological surveys, published literature, etc.) to obtain information about the estimated  
261 prevalence or incidence of the disease or condition across the affected population, by race,  
262 ethnicity, sex, and age group. When using non-publicly available sources (e.g., electronic health  
263 records, certain registries, or other privately held information sources) to derive  
264 incidence/prevalence estimates, sponsors should provide the rationale for the approach, a  
265 synopsis of the analysis used, and citations for the source(s) for these data.

266  
267 The estimated prevalence or incidence of the disease or condition by demographic characteristics  
268 in the U.S. population for which the medical product is being investigated should generally  
269 inform enrollment goals. In certain situations, there may be limited or no data or information  
270 available to characterize the incidence and/or prevalence of the disease or condition, or the  
271 demographic characteristics of the intended population. In these circumstances, sponsors should  
272 consider the following or other approaches to setting enrollment goals, and should provide the  
273 rationale for the approach used:

<sup>43</sup> Sections 505(z)(2) and 520(g)(9)(B) of the FD&C Act.

<sup>44</sup> Sections 505(z)(2) and 520(g)(9)(B) of the FD&C Act.

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- 275     • For a disease or condition where the prevalence/incidence and distribution in the  
276        population by demographic characteristics are known, there may be situations where for a  
277        subset of that disease or condition, this information is unavailable or has other limitations  
278        precluding its use for the purposes of goal setting. For example, there may be information  
279        regarding the distribution of the intended use population by the demographic  
280        characteristics of race, ethnicity, sex, and age group for cholangiocarcinoma, but such  
281        information may be unavailable for the subset of cholangiocarcinoma for which the  
282        medical product is intended, such as cholangiocarcinoma with an FGFR2 fusion. When  
283        evaluating a medical product in a such a subset of a disease or condition, it may be  
284        acceptable to use prevalence and incidence information for the broader disease and base  
285        enrollment on the demographic characteristics of that broader disease population (e.g.,  
286        the enrollment goal for a study of FGFR2 mutated cholangiocarcinoma cancer could be  
287        based on prevalence or incidence information for cholangiocarcinoma).
- 288     • For a clinical study designed to investigate a medical product that is intended for a  
289        general use population (e.g., preventive vaccine), it may be acceptable to set enrollment  
290        goals based on general U.S. population demographics (i.e., U.S. census data).
- 291     • For a clinical study designed to investigate a medical product in a population for which  
292        there are limited or no data or information to characterize the demographic characteristics  
293        of the intended use population, it may be acceptable to set enrollment goals based on  
294        general U.S. population demographics (i.e., U.S. census data).

295     FDA recognizes the importance of global medical product development and supports the use of  
296        well-designed and conducted multi-regional clinical studies, when appropriate, to provide the  
297        evidence of safety and effectiveness for FDA-regulated medical products. Globally conducted  
298        clinical development programs should be designed with appropriate consideration given to  
299        differences in disease characteristics, medical practice, and available therapies when selecting  
300        foreign clinical sites and defining geographic regions. A Diversity Action Plan for a multi-  
301        national clinical study must describe participant enrollment goals for the entire study<sup>45</sup> and  
302        should not be limited to U.S.-enrolled participants. Additionally, the overall study design,  
303        including the selection of study sites, should account for the need to enroll a population  
304        representative of the U.S. intended use population as part of the overall medical product  
305        development program. FDA recognizes that the lack of uniformity across the globe in the use of  
306        population descriptors such as race and ethnicity may pose challenges when setting enrollment  
307        goals for international sites. For example, it may be challenging to identify corresponding  
308        populations defined on the basis of race or ethnicity when describing the affected population  
309        outside the U.S. and consequently, when setting enrollment goals for the clinical study. Sponsors  
310        should consider FDA guidance<sup>46</sup> when describing and presenting population race or ethnicity for  
311        the purposes of setting enrollment goals.

<sup>45</sup> See section 505(z)(2) and 520(g)(9)(B) of the FD&C Act.

<sup>46</sup> See draft guidance for industry *Collection of Race and Ethnicity Data in Clinical Trials and Clinical studies for FDA-Regulated Medical Products* (January 2024). When final this guidance will represent the FDA's current thinking on this topic. See also guidance for industry *Evaluation and Reporting of Age-, Race-, and Ethnicity-Specific Data in Medical Device Clinical Studies* (September 2017).

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313 FDA recognizes that the distribution of the disease or condition across the clinically relevant  
314 population may differ by geographic region based on several factors, including but not limited to  
315 risk factors, screening practices, and available treatments, which may add complexity to  
316 enrollment goal setting. Sponsors should engage early with FDA review divisions to discuss how  
317 to address these factors in the Diversity Action Plan (See Sections VI and VII below for  
318 additional details on engagement with FDA).

319

320 In setting enrollment goals, sponsors may also consider characteristics such as geographic  
321 location and the SES of the population with the disease or condition in the intended use  
322 population if the available data suggest that these characteristics are expected to impact the  
323 outcomes under investigation in the study. As an example, geographic location and SES may  
324 affect enrollment and retention of the various subgroups of the population for a clinical study.  
325 The Diversity Action Plan should describe if and how these factors may have informed the  
326 sponsor's proposed enrollment goals. Additionally, early identification of barriers and  
327 implementation of strategies to mitigate such barriers should be described in the Diversity Action  
328 Plan.

329

330 **Table 1. Enrollment Goals Disaggregated by Race, Ethnicity, Sex, Age Group (Summary)**

Enrollment goals must be disaggregated by:<sup>47</sup>

- Race (sponsors should list goals for each category according to FDA guidance for reporting race)<sup>48</sup>
- Ethnicity (sponsors should list goals for each category according to FDA guidance for reporting ethnicity)<sup>49</sup>
- Sex (sponsors should list goals for each category according to FDA guidance for reporting sex)<sup>50</sup>
- Age group (sponsors should list goals for clinically relevant age subsets according to FDA guidance)<sup>51</sup>

331

332

### **B. Rationale for Enrollment Goals**

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<sup>47</sup> Sections 505(z)(2) and 520(g)(9)(B) of the FD&C Act.; See also section 3602 of FDORA.

<sup>48</sup> See footnote 46.

<sup>49</sup> See footnote 46.

<sup>50</sup> See guidance for industry *Study of Sex Differences in the Clinical Evaluation of Drugs* (July 1993) and guidance for industry *Evaluation of Sex-Specific Data in Medical Device Clinical Studies* (August 2014).

<sup>51</sup> See the following guidances for industry *Inclusion of Older Adults in Cancer Clinical Trials* (March 2022) and *Enhancing the Diversity of Clinical Trial Populations – Eligibility Criteria, Enrollment Practices, and Trial Designs* (November 2020). See also the draft guidance for industry *Geriatric Information in Human Prescription Drug and Biological Product Labeling* (September 2020). When final this guidance, will represent the FDA's current thinking on this topic. See also the guidances for industry *E7 Studies in Support of Special Populations: Geriatrics* (August 1994), *E7 Studies in Support of Special Populations: Geriatrics Questions and Answers* (March 2012), *E11 Clinical Investigation of Medicinal Products in the Pediatric Population* (December 2000), *E11(R1) Addendum: Clinical Investigation of Medicinal Products in the Pediatric Population* (April 2018), *Considerations for the Inclusion of Adolescent Patients in Adult Oncology Clinical Trials* (March 2019), and *Pediatric Information Incorporated into Human Prescription Drug and Biological Product Labeling* (March 2019).

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334 The Diversity Action Plan must include the sponsor’s rationale for the enrollment goals.<sup>52</sup> To  
335 meet this statutory requirement, a sponsor’s rationale must include sufficient information and  
336 analysis to explain how the sponsor determined its enrollment goals.<sup>53</sup> Thus, a sponsor’s  
337 rationale for the enrollment goals should include:

- 338 • Background information necessary to understand the disease or condition for which the  
339 drug or device is being investigated, including an overview of the natural history of the  
340 disease or condition and risk factors, as well as prevalence and incidence estimates, if  
341 available.
- 342 • Any other background information that justifies the enrollment goals.
- 343 • If a sponsor plans to conduct several clinical studies to support a single marketing  
344 submission, the sponsor may opt to specify enrollment goals across the planned clinical  
345 studies. A sponsor’s rationale for having different enrollment goals across planned  
346 studies must be included in the Diversity Action Plan;<sup>54</sup> the rationale provided should  
347 indicate how individual clinical studies are intended to contribute to the overall  
348 enrollment goals for the clinical development program for the medical product (i.e., for a  
349 particular indication or intended use).
- 350 • Additionally,
  - 351 ○ For drugs, the rationale should describe data and information that suggest a  
352 potential for differential safety and effectiveness of the investigational drug  
353 across the clinically relevant population such as possible differences in PK or  
354 pharmacodynamics (PD). Sponsors should also describe available data regarding  
355 differences in PK, PD, safety, or effectiveness (e.g., by sex, age, or by genetic  
356 variations which may be more prevalent in certain racial and ethnic populations  
357 that impact drug metabolism or susceptibility to adverse reactions)<sup>55</sup> in the  
358 Diversity Action Plan. Additionally, sponsors should describe, as applicable, the  
359 relevancy of other population-level or individual characteristics that available  
360 data suggest have an impact on the clinical outcomes (e.g., SES, geographic  
361 location, comorbidities). Sponsors should include citations for the sources of data  
362 and information (e.g., epidemiological databases, registries, etc.) upon which  
363 rationales for enrollment goals are based.
  - 364 ○ For devices, the rationale for enrollment goals should describe data and  
365 information about the potential for differential safety and effectiveness of the  
366 device across the clinically relevant populations. Sponsors should also describe  
367 available data regarding differences expected to impact safety or effectiveness  
368 (e.g., by sex, age or by genetic variations, which may be more prevalent in  
369 certain racial and ethnic populations that are expected to impact clinical  
370 outcomes or susceptibility to adverse events). Additionally, sponsors should  
371 describe, as applicable, the relevance of other population-level or individual

<sup>52</sup> Section 505(z)(2)(B) and 520(g)(9)(B)(ii).

<sup>53</sup> Section 505(z)(2)(B) and 520(g)(9)(B)(ii).

<sup>54</sup> Section 505(z)(2)(B) and 520(g)(9)(B)(ii).

<sup>55</sup> See guidance for industry *Clinical Pharmacogenomics: Premarket Evaluation in Early-Phase Clinical Studies and Recommendations for Labeling* (January 2013).

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characteristics that available data suggest may have an impact on the clinical outcomes (e.g., SES, geographic location, comorbidities). Data on relevant factors for device performance (e.g., phenotypic, anatomical, technological, or biological factors) should be evaluated to characterize any differential effects across a diverse population by the relevant demographic characteristics. The rationale should describe how the sponsor considered the available information when setting the enrollment goals. For example, variations in skin pigmentation that may exist across a diverse population that can affect the performance of certain devices would be a relevant attribute to consider when describing the available data and information in the intended use population. Sponsors should include citations for the sources of data and information (e.g., epidemiological databases, registries, etc.) upon which rationales for enrollment goals are based.

384

### **C. Measures to Meet Enrollment Goals**

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386

The Diversity Action Plan must include an explanation of how the sponsor plans to meet the specified enrollment goals.<sup>56</sup> To meet this requirement, the Diversity Action Plan should include a description of the enrollment and retention strategies for the study population. FDA recognizes that inequities in clinical study access and participation for certain populations occur within the context of broader health care inequities. While FDA recognizes the value of broad efforts to address healthcare systemic barriers that lead to disparities in clinical study participation rates across various populations (e.g., identification and training of diverse clinical trial investigators and staff, etc.), this section of the Diversity Action Plan should focus on specific measures that address the enrollment and retention of participants in the particular clinical study for which the Diversity Action Plan is developed. FDA encourages sponsors to consult patients and healthcare providers as part of the process for developing the Diversity Action Plan, including for considering enrollment and retention strategies. Examples of clinical study enrollment and retention strategies may include, but are not limited to the following<sup>57</sup>:

- 400
- 401 • Implementing sustained community engagement (e.g., through community advisory boards and navigators, community health workers, patient advocacy groups, local healthcare providers, community organizations, etc.).

402

  - 403 • Providing cultural competency and proficiency training for clinical investigators and research staff may help facilitate the building of a trusting relationship with participants, provide a helpful resource for investigators and research staff on how to engage with participants with different backgrounds, help decrease biased communication and behavioral practices, and help avoid the use of cultural generalizations and stereotypes in interactions with participants.

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<sup>56</sup> Sections 505(z)(2)(C) and 520(g)(9)(B)(iii) of the FD&C Act and section 3602(a)(1)(B) of FDORA.

<sup>57</sup> See also *Enhancing the Diversity of Clinical Trial Populations — Eligibility Criteria, Enrollment Practices, and Trial Designs* (November 2020).

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- 409     • Improving study participant awareness and knowledge of the clinical study (e.g.,  
410        providing language assistance for persons with limited English proficiency<sup>58</sup>).
- 411     • Reducing participant burden (e.g., avoiding unnecessary study-related procedures,  
412        imaging, and laboratory tests; employing sites for procedures and laboratory tests that are  
413        convenient to the specific populations included in the enrollment goals; providing  
414        transportation assistance; providing dependent care; allowing flexible hours for study  
415        visits; reimbursement for costs incurred).
- 416     • Improving access to the clinical study by limiting clinical study exclusion criteria,  
417        selecting clinical study site locations that would facilitate enrollment of a representative  
418        study population (e.g., initiating the clinical study in sites that serve demographically  
419        diverse populations and that have prior experience enrolling diverse study participants in  
420        clinical studies), and considering the accessibility needs of persons with disabilities.
- 421     • Employing clinical study decentralization when appropriate.<sup>59</sup>

422 The Diversity Action Plan should also include a description of the sponsor's plan to monitor  
423 enrollment goals during the conduct of the clinical study to help ensure that goals are met. This  
424 measure can facilitate prompt intervention to address barriers to meeting enrollment goals. For  
425 example, the sponsor could consider specifying in the Diversity Action Plan the manner and  
426 frequency with which study enrollment will be monitored (e.g., when a certain proportion of the  
427 study population has been enrolled), and any measures that may be undertaken should the  
428 sponsor determine that the study is not on track to meet enrollment goals. Sponsors can also  
429 provide this information in submissions for Diversity Action Plan modifications and in briefing  
430 packages for meetings related to the clinical study.

## **VI. TIMELINES FOR SUBMITTING DIVERSITY ACTION PLANS**

435 Although a sponsor may discuss the Diversity Action Plan with FDA as soon as practicable  
436 during medical product development, sponsors must submit Diversity Action Plans for certain  
437 clinical studies for drugs and devices according to the following statutorily required timelines:

- 438     • For drugs, sponsors must submit the required Diversity Action Plan to the relevant IND  
439        application as soon as practicable but no later than the date on which the sponsor submits  
440        the protocol to FDA for the phase 3 study or, as appropriate, other pivotal study.<sup>60</sup>

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<sup>58</sup> FDA strongly encourages stakeholders to ensure that study materials are accessible to individuals with limited English proficiency. To the extent an organization receives Federal financial assistance from the U.S. Department of Health and Human Services, Title VI of the Civil Rights Act of 1964 and its implementing regulations require the organization to take reasonable steps to provide meaningful access to its programs and activities by individuals with limited English proficiency. See 42 U.S.C. 2000d, et seq; 45 CFR part 80; see also Section 1557 of the Affordable Care Act, 42 U.S.C. 18116, which provides similar protections as those under Title VI in health programs and activities receiving Federal financial assistance.

<sup>59</sup> See draft guidance for industry, investigators, and other stakeholders *Decentralized Clinical Trials for Drugs, Biological Products, and Devices* (May 2023). When final, this guidance will represent the FDA's current thinking on this topic.

<sup>60</sup> Section 505(z)(3) of the FD&C Act.

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441 Because FDA's review of and feedback on the Diversity Action Plan is most efficient if it  
442 occurs in the context of discussions regarding the trial design, study population selection,  
443 and other aspects of the clinical study, FDA recommends submission of the Diversity  
444 Action Plan when a sponsor is seeking feedback regarding the applicable clinical study  
445 for the drug (typically at the End-Of-Phase 2 meeting).

- 446 • For device clinical studies that require an IDE application to be submitted to FDA, the  
447 Diversity Action Plan must be included in the IDE application. Sponsors of certain  
448 studies for which submission of an IDE application is not required must develop a  
449 Diversity Action Plan to guide the development of any clinical study with respect to that  
450 device and must submit the Diversity Action Plan as part of the device's premarket  
451 notification (510(k)), PMA application, or De Novo classification request.<sup>61</sup> As discussed  
452 above, FDA expects there will be studies of certain devices for which FDA does not  
453 expect a Diversity Action Plan. When FDA's feedback on specific questions is necessary  
454 to guide product development and/or preparation of a submission before submitting a  
455 Diversity Action Plan in an IDE or a marketing submission, the sponsor should follow  
456 the Q-submission process for obtaining feedback or requesting a meeting with FDA (see  
457 section VII). A sponsor may include questions regarding the Diversity Action Plan in a  
458 Q-submission submitted to request feedback on questions related to design and conduct  
459 of a clinical study prior to its submission in an IDE application or prior to initiating a  
460 clinical study for which submission of an IDE application is not required.<sup>62</sup>

## **VII. PROCEDURES FOR SUBMITTING THE DIVERSITY ACTION PLAN AND RECEIVING FEEDBACK**

465 The process for submitting Diversity Action Plans will vary depending on the medical product  
466 type. This section describes the process for submitting a Diversity Action Plan for a clinical  
467 study of a drug or device and for receiving FDA feedback on the Diversity Action Plan.

468 To ensure that FDA can conduct a timely and efficient review of a Diversity Action Plan,  
469 sponsors should describe the required elements of the Diversity Action Plan clearly and  
470 concisely, with limited cross-referencing to previously submitted documents. In most cases, the  
471 Diversity Action Plan should be succinct, its length generally not exceeding 10 pages, excluding  
472 references.

### **For Drugs:**

- 474 • The Diversity Action Plan must be submitted to the IND under which the applicable  
475 clinical study will be conducted.
- 476 • Sponsors should include relevant administrative information on the title page of the  
477 Diversity Action Plan including the drug name, IND number, proposed indication(s),

<sup>61</sup> A study that is exempt from the requirements of the IDE regulations under 21 CFR 812.2(c) does not require the development or submission to FDA of a Diversity Action Plan under section 520(g)(9)(A)(ii) of the FD&C Act.

<sup>62</sup> See the guidance for industry and FDA staff *Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program* (June 2023).

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478 clinical study identification information (e.g., NCT number, title, study ID) and the  
479 Diversity Action Plan version number and date.

- 480 • The cover letter accompanying a Diversity Action Plan submission should alert FDA that  
481 the submission includes a Diversity Action Plan and denote whether the Diversity Action  
482 Plan is new or revised. Sponsors should indicate in the cover letter accompanying a new  
483 or revised Diversity Action Plan, “**DIVERSITY ACTION PLAN-Initial**” or  
484 “**DIVERSITY ACTION PLAN- Revised**,” respectively, written in large, bolded type. If  
485 a partial waiver (see Section VIII below) has been granted for the clinical study that is the  
486 subject of the Diversity Action Plan, sponsors should alert FDA in the cover letter  
487 accompanying the Diversity Action Plan, and in the relevant section(s) in the Diversity  
488 Action Plan.
- 489 • Depending on the specifics for each clinical development program, the relevant Division  
490 in CDER or CBER may or may not provide feedback on the Diversity Action Plan. FDA  
491 feedback on a new or revised Diversity Action Plan may be at FDA’s initiative or per the  
492 sponsor’s specific request for feedback. Sponsors with specific questions regarding a  
493 planned or submitted Diversity Action Plan may include them as a topic for discussion in  
494 meetings with FDA.<sup>63</sup>
- 495 • Following submission of an initial Diversity Action Plan, a sponsor may, as appropriate,  
496 submit modifications to the Diversity Action Plan.<sup>64</sup> Such modifications may be based on  
497 feedback from the FDA or at the sponsor’s own initiative. In such instances, the  
498 submission must include a copy of the Diversity Action Plan with changes tracked as  
499 well as a clean version. As part of the submission, sponsors must also include a  
500 “Summary of Modifications and Justification” section that outlines the modifications to  
501 the Diversity Action Plan and provide the rationale for such changes.
- 502 • For an IND that is required to be submitted in eCTD format, Diversity Action Plan  
503 submissions must be submitted in eCTD module 2.5, Clinical overview.<sup>65</sup>
- 504 • The status of the Diversity Action Plan submission and as appropriate, any discussions  
505 and correspondence with FDA regarding the Diversity Action Plan, including with  
506 respect to partial waiver requested or granted, should be included in the regulatory history  
507 for milestone meetings (i.e., in the meeting briefing document), as well as in marketing  
508 submissions.
- 509 • FDA regulations require IND sponsors to submit annual reports.<sup>66</sup> These annual reports  
510 must include for each study the total number of subjects entered into the study to date,  
511 tabulated by age group, gender, and race, among other information.<sup>67</sup> Sponsors should  
512 provide an update in their IND annual reports on their progress toward meeting Diversity

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<sup>63</sup> See draft guidance for industry *Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products* (September 2023). When final, this guidance will represent the FDA’s current thinking on this topic.

<sup>64</sup> Section 505(z)(3) of the FD&C Act.

<sup>65</sup> For a discussion of eCTD submissions, see guidance for industry *Providing Regulatory Submissions in Electronic Format — Certain Human Pharmaceutical Product Applications and Related Submissions Using the eCTD Specifications* (February 2020).

<sup>66</sup> 21 CFR 312.33.

<sup>67</sup> 21 CFR 312.33(a)(2). Note that we consider the term “gender” in this regulation to mean “sex.”

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513 Action Plan enrollment goals. Sponsors should submit the Diversity Action Plan update  
514 in the annual report section pertaining to clinical study participant demographics. If such  
515 goals are not on track for being met at the conclusion of the study, the status report  
516 should include a description of the reason(s) the sponsor is not currently meeting or does  
517 not expect to meet enrollment goals and the sponsor's plan to mitigate such an outcome.

- 518 • In marketing application submissions, sponsors should provide a brief overview of the  
519 Diversity Action Plan pertaining to the phase 3 or other pivotal clinical study, an  
520 assessment of whether the Diversity Action Plan enrollment goals were met in the  
521 context of the relevant clinical study or the overall phase 3 development program, and as  
522 appropriate, an explanation of what measures may have contributed to the observed  
523 outcomes with respect to the enrollment goals. If a waiver from the requirement to submit  
524 a Diversity Action Plan has been granted, the sponsor should clearly indicate such in the  
525 marketing application submission and cite the correspondence granting the waiver.  
526 Sponsors should include information regarding the Diversity Action Plan in module  
527 eCTD 2.5 of the NDA or BLA submission.

## **For Devices**

- 528 • FDA considers the Diversity Action Plan for a clinical study to be a constituent part of  
529 the overall process for generating clinical evidence for the subject device. As such, a  
530 sponsor may submit a pre-submission to request written feedback or a meeting with FDA  
531 regarding the Diversity Action Plan for a clinical study (See Section III for information  
532 on studies requiring submission of a Diversity Action Plan).<sup>68</sup>
- 533
- 534 • A Diversity Action Plan must be submitted as part of the IDE application for clinical  
535 studies of SR devices.<sup>69</sup>
- 536 • For device studies that require development of a Diversity Action Plan, but do not require  
537 an IDE (see Section III) the Diversity Action Plan must be submitted as part of a 510(k),  
538 PMA application, or De Novo classification request. While FDA encourages sponsors to  
539 seek Agency feedback when appropriate, consistent with existing approaches to  
540 developing clinical evidence, FDA anticipates that many Diversity Action Plans for  
541 studies not requiring submission of an IDE application may be developed without FDA's  
542 input. A pre-submission may be appropriate when FDA's feedback on specific questions  
543 is necessary to guide product development and/or submission preparation. For example,  
544 if submission of an IDE application is not required, a sponsor may opt to request FDA's  
545 feedback on the enrollment goals of the clinically relevant population for a proposed  
546 pivotal clinical study intended to support a particular intended use.
- 547
- 548 • The cover letter accompanying a submission that includes a Diversity Action Plan (e.g.,  
549 an IDE application, marketing submission, or a Q-submission seeking feedback on a  
550 Diversity Action Plan) should alert FDA that the submission includes a Diversity Action  
551 Plan and, denote whether the Diversity Action Plan is new or revised. Sponsors should

<sup>68</sup> See guidance for industry and FDA staff, *Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program* (June 2023).

<sup>69</sup> Section 520(g)(9)(A)(i) of the FD&C Act.

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552 state in the cover letter accompanying a new or revised Diversity Action Plan,  
553 “DIVERSITY ACTION PLAN-Initial” or “DIVERSITY ACTION PLAN- Revised,”  
554 respectively, written in large, bolded type.

- 555 • Sponsors should include relevant administrative information on the title page of the  
556 Diversity Action Plan, including device name; sponsor contact information; relevant  
557 submission number(s) including as appropriate, IDEs, Q-submissions, and/or marketing  
558 submissions, proposed indication or indications for use statement, and intended use,  
559 clinical study identification information (e.g., NCT number, title, study ID), and the  
560 Diversity Action Plan version number and date.
- 561 • Following submission of an initial Diversity Action Plan, a sponsor may, as appropriate,  
562 submit modifications to the Diversity Action Plan. Such modifications may be based on  
563 feedback from the FDA or at the sponsor’s own initiative. In such instances, the  
564 submission must include a copy of the Diversity Action Plan with changes tracked as  
565 well as a clean version. As part of the submission, sponsors must also include a  
566 “Summary of Modifications and Justification” section that outlines the modifications to  
567 the Diversity Action Plan and provides the rationale for such changes.
  - 568 ○ For modifications to the Diversity Action Plan for a SR study following approval  
569 of the IDE application under which an applicable SR medical device study will be  
570 conducted: FDA considers changes to the Diversity Action Plan included in an  
571 approved IDE to be similar to other types of changes made to the approved study.  
572 Such modifications may be in response to feedback from the FDA or at the  
573 sponsor’s own initiative. In such instances, sponsors should follow the processes  
574 discussed in the guidance for industry and CDRH staff, *Changes or Modifications*  
575 *During the Conduct of a Clinical Investigation* (May 2001) which outlines FDA’s  
576 implementation of 21 CFR 812.35, and discusses under what circumstances a  
577 change to an approved IDE application requires prior approval by FDA (i.e.,  
578 through submission of an IDE supplement) and when such a change may be  
579 implemented with subsequent notice to the Agency (i.e., through a 5-day notice or  
580 annual report).
  - 581 ○ For modifications to the Diversity Action Plan for a study intended to support  
582 FDA’s evaluation of a medical device and which does not require an IDE  
583 application: if the sponsor considers FDA’s feedback on the modification to be  
584 necessary to guide product development and/or submission preparation, the  
585 sponsor should submit a pre-submission. FDA anticipates that most modifications  
586 to a Diversity Action Plan for studies that do not require an IDE will not require  
587 feedback from the Agency.
- 588 • Marketing submissions, IDE applications, and requests for feedback or meetings should  
589 include a summary of any discussions and correspondence with FDA regarding a relevant  
590 Diversity Action Plan, including with respect to any waiver requests (see Section VIII). If  
591 a waiver has been granted for any requirements discussed in this guidance, the sponsor  
592 should clearly indicate such in the cover letter of the submission and should provide a  
593 copy of FDA’s correspondence granting the waiver.

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- 594 • As part of periodic reporting requirements under applicable FDA regulations (e.g., IDE  
595 annual reports),<sup>70</sup> sponsors should include an update to FDA on their progress toward  
596 meeting Diversity Action Plan enrollment goals. If such goals are not being met or are  
597 not expected to be met at the conclusion of the study, the status report should include a  
598 description of the reason(s) why the sponsor is not currently meeting and/or does not  
599 expect to meet enrollment goals and the sponsor's plan to mitigate such an outcome.  
600
- 601 • In marketing submissions that contain clinical data from studies conducted under an  
602 approved IDE application submitted to FDA, sponsors should provide a brief overview of  
603 the Diversity Action Plan pertaining to the relevant clinical studies that generated data to  
604 support the marketing submission. Sponsors should also provide an assessment of  
605 whether the Diversity Action Plan enrollment goals were met in the context of the  
606 applicable study or the development program and, as appropriate, an explanation of what  
607 measures may have contributed to the observed outcomes with respect to the enrollment  
608 goals.  
609
- 610 • In marketing submissions for which the device study did not require an approved IDE  
611 application and was not exempt from IDE requirements under 21 CFR 812.2(c), sponsors  
612 must provide the Diversity Action Plan for the study. In addition to the information  
613 described in Section V above, sponsors should also include an assessment of whether the  
614 Diversity Action Plan enrollment goals were met in the context of the relevant clinical  
615 study or the development program and, as appropriate, an explanation of what measures  
616 may have contributed to the observed outcomes with respect to the enrollment goals.  
617
- 618 • In circumstances where a Diversity Action Plan is required to support marketing  
619 authorization, FDA recommends that sponsors provide a clear and concise description of  
620 the Diversity Action Plan for inclusion in the public-facing summary documents (e.g., De  
621 Novo Summary, 510(k) Summary, PMA Summary of Safety and Effectiveness (SSED)).  
622

## **VIII. REQUESTING DIVERSITY ACTION PLAN WAIVERS**

624 FDA anticipates that submission of a Diversity Action Plan as discussed in this guidance will be  
625 possible in most cases. However, under section 505(z)(4) and section 520(g)(9)(C) of the FD&C  
626 Act (as amended by section 3601 of FDORA), FDA may waive the requirement to submit a  
627 Diversity Action Plan, or any part thereof, either on the Agency's initiative or at a sponsor's  
628 request if certain criteria are met.<sup>71</sup> While the appropriateness of a waiver is a case-specific  
629 determination and will depend on factors relevant to a specific development program, FDA will  
630 evaluate whether any of the following statutory criteria are satisfied when considering whether a  
631 waiver is appropriate:<sup>72</sup>

- 632     a. A waiver is necessary based on what is known or what can be determined about the  
633 prevalence or incidence in the U.S. of the disease or condition for which the new drug or

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<sup>70</sup> See 21 CFR 812.150(b)(5).

<sup>71</sup> Sections 505(z)(4)(A) and 520(g)(9)(C).

<sup>72</sup> Sections 505(z)(4)(A) and 520(g)(9)(C).

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634 device is under development (including in terms of the patient population that may use  
635 the drug or device).

- 636 b. Conducting a clinical investigation in accordance with a Diversity Action Plan would  
637 otherwise be impracticable; or,  
638 c. A waiver is necessary to protect public health during a public health emergency.

639 FDA may grant a waiver from the requirement to submit a Diversity Action Plan (full waiver) or  
640 a waiver for any requirement of a Diversity Action Plan (partial waiver).<sup>73</sup> Given the importance  
641 of increasing enrollment of historically underrepresented populations in clinical research,  
642 including in clinical studies of drugs and devices, in order to detect potential differences in  
643 product performance and improve the generalizability of the results full or partial waivers from  
644 the requirements around the submission of a Diversity Action Plan will only be granted in rare  
645 instances. If FDA determines that the statutory criteria for granting a waiver are met and that  
646 granting a waiver on the Agency's initiative is appropriate, such as the need to protect public  
647 health during a public health emergency, FDA will notify interested parties through appropriate  
648 channels. For example, to the extent permitted under applicable disclosure law, FDA may  
649 consider public communications and/or post relevant information on FDA's website regarding  
650 the decision to issue the waiver. Sponsors should consider the following in determining whether  
651 to submit a request for a full or partial waiver:

- 652 • FDA generally does not intend to waive the requirement to submit a Diversity Action  
653 Plans even if the disease or condition under study is relatively homogenous with respect  
654 to race, ethnicity, sex, or age group. If supported by relevant data and information,  
655 sponsors should indicate in their rationale supporting their enrollment goals why the  
656 targeted population is homogenous.
- 657 • FDA is required to issue a written response granting or denying a waiver request within  
658 60-days of receiving such request.<sup>74</sup> As such, sponsors should submit requests for a  
659 waiver (if warranted) as early as feasible, and no later than 60 days before the Diversity  
660 Action Plan is required for submission. FDA strongly encourages sponsors to discuss  
661 plans to request a waiver early in the planning stages of the clinical study or clinical  
662 development program. Sponsors should request a waiver early enough to allow sufficient  
663 time for preparation and submission of the Diversity Action Plan as required, should  
664 FDA deny the waiver request. Sponsors should not submit waiver requests less than 60  
665 days before the Diversity Action Plan is required.
- 666 • As noted above, sponsors may decide to include different enrollment goals across  
667 multiple planned phase 3 or other pivotal studies. FDA recognizes that under these  
668 circumstances, the enrollment goals for each individual study may not be fully reflective  
669 of the enrollment goals across all studies. In these cases, sponsors should not seek a  
670 waiver for each study. Rather, in their Diversity Action Plans, sponsors should specify  
671 how the enrollment goals are expected to be met across the development program and  
672 provide a rationale for the enrollment goals for a specific study.

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<sup>73</sup> See sections 505(z)(4)(A) and 520(g)(9)(C)(i) of the FD&C Act.

<sup>74</sup> See sections 505(z)(4)(B) for drugs and 520(g)(9)(C)(ii) for devices.

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- 674 • For drugs, a waiver request should be submitted electronically to the IND, in eCTD  
675 **module 1.12.5, Request for a waiver** and should be submitted to the IND application  
676 under which the clinical study that is subject to the requirement of a Diversity Action  
677 Plan will be conducted. The accompanying cover letter should include “**DIVERSITY**  
678 **ACTION PLAN- Waiver Request**” written in large, bolded type. The waiver request  
679 submission should include the following information: IND number, applicable clinical  
680 study name or identification number and a justification for the waiver request, including  
681 relevant data and information.
- 682 • For devices, a waiver request should be submitted as a standalone submission with an  
683 accompanying cover letter that includes “**DIVERSITY ACTION PLAN- Waiver**  
684 **Request**” written in large, bolded type. The waiver request should include the following  
685 information: submission number(s) if available, information about the device including a  
686 device description and proposed intended use, the applicable clinical study, the type of  
687 marketing submission that the clinical study is intended to support, and a justification for  
688 the waiver request, including relevant data and information.

## **IX. SPONSOR PUBLIC POSTING OF KEY INFORMATION FROM DIVERSITY ACTION PLANS**

692 FDA strongly encourages sponsors to share strategies for meeting Diversity Action Plan  
693 enrollment goals with the public. To further promote transparency, sponsors may consider  
694 publicly posting on their website key information from their Diversity Action Plans, namely their  
695 clinical study enrollment goals disaggregated by race, ethnicity, sex, and age group, and a brief  
696 description of the measures taken to achieve the stated goals. For medical products or uses that  
697 are not approved, licensed, cleared, or classified, such key information should be available in the  
698 same location as other content regarding such products (e.g., on the “pipeline” page of a  
699 sponsor’s website). Although sponsors can post such key information at any time, while the  
700 study is still open for recruitment, sponsors may wish to consider:

- 701 • Linking from such a posting to a recruitment website for the trial or to a commonly used  
702 repository for clinical trial information, or
- 703 • Linking to the sponsor’s website posting from a recruitment website for the trial or from  
704 a commonly used repository for clinical trial information because patients and the public  
705 may be searching for clinical studies in clinical trial databases such as  
706 ClinicalTrials.gov.<sup>75</sup>

707 FDA recommends the use of consumer-friendly language when sharing key information from  
708 Diversity Action Plans.

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<sup>75</sup> To add a link on ClinicalTrials.gov to the key information from a Diversity Action Plan posted on the sponsor’s website, responsible parties should use the *Available Individual Participant Data (IPD) and Supporting Information* data element. Patients, providers, and other members of the public could subsequently search for study records displaying these links on ClinicalTrials.gov by using the *AvailIPDType* field name.

## APPENDICES

### APPENDIX 1: ELEMENTS OF A DIVERSITY ACTION PLAN<sup>76</sup> (SUMMARY)

The cover letter accompanying a submission that includes a Diversity Action Plan (DAP) should alert the FDA that the submission includes a DAP and denote whether the DAP is new or modified. Indicate in the cover letter accompanying a new or revised DAP, “DIVERSITY ACTION PLAN-Initial” or “DIVERSITY ACTION PLAN- Revised,” respectively, written in large, bolded type. If a partial waiver has been granted, the sponsor should clearly indicate this in the cover letter of the submission and, should provide a copy of the FDA’s correspondence granting the waiver. The DAP should contain a clear and concise description of the required elements of the DAP, with limited cross-referencing of previously submitted documents to facilitate review. In most cases the DAP should be succinct, its length generally not exceeding 10 pages, excluding references.

#### TITLE PAGE

The title page of the DAP should include relevant administrative information.

- Medical product name.
- IND/IDE number (if applicable), and/or other relevant submission information (e.g., to identify previous Q-submissions or marketing submissions for the medical device).
- Proposed indication or indications for use statement and intended use.
- Clinical study identification information (e.g., NCT number, title, study ID).
- **DAP version number and date**

#### ENROLLMENT GOALS

Enrollment goals must be disaggregated by:<sup>77</sup>

- Race (sponsors should list goals for each category according to FDA guidance for reporting race)<sup>78</sup>
- Ethnicity (sponsor should list goals for each category according to FDA guidance for reporting ethnicity)<sup>79</sup>
- Sex (sponsors should list goals for each category according to FDA guidance for reporting sex)<sup>80</sup>
- Age group (sponsors should list goals for clinically relevant age subsets according to FDA guidance)<sup>81</sup>

#### RATIONALE FOR ENROLLMENT GOALS

Diversity Action Plans must include a rationale for the enrollment goals. To meet this statutory requirement, a sponsor’s rationale must include sufficient information and analysis to explain how the sponsor determined its enrollment goals. Thus, a sponsor’s rationale for enrollment goals should include information necessary to understand the disease or condition including natural history, risk factors, etc. If conducting several clinical studies to support a single marketing submission and opting to specify enrollment goals across the planned clinical studies, sponsor must indicate how the individual clinical studies are intended to contribute to the stated enrollment goals.

Additionally,

- **For drugs the rationale should include:**

<sup>76</sup> This Appendix is intended to summarize the elements of a Diversity Action Plan; sponsors should refer to the detailed description provided in the main text of the guidance for information on the content and format of the Diversity Action Plan.

<sup>77</sup> Sections 505(z)(2) and 520(g)(9)(B) of the FD&C Act; see also section 3602 of FDORA.

<sup>78</sup> See the draft guidance for industry and FDA staff *Collection of Race and Ethnicity Data in Clinical Trials and Clinical Studies for FDA-Regulated Medical Products* and the guidance *Evaluation and Reporting of Age-, Race-, and Ethnicity-Specific Data in Medical Device Clinical Studies* (September 2017).

<sup>79</sup> See footnote 78.

<sup>80</sup> See guidance for industry *Study of Sex Differences in the Clinical Evaluation of Drugs* (July 1993) and guidance for industry *Evaluation of Sex-Specific Data in Medical Device Clinical Studies* (August 2014).

<sup>81</sup> See the following guidances for industry *Inclusion of Older Adults in Cancer Clinical Trials* (March 2022) and *Enhancing the Diversity of Clinical Trial Populations – Eligibility Criteria, Enrollment Practices, and Trial Designs* (November 2020). See also the draft guidance for industry *Geriatric Information in Human Prescription Drug and Biological Product Labeling* (September 2020). When final this guidance, will represent the FDA’s current thinking on this topic. See also the guidances for industry *E7 Studies in Support of Special Populations: Geriatrics* (August 1994), *E7 Studies in Support of Special Populations: Geriatrics Questions and Answers* (March 2012), *E11 Clinical Investigation of Medicinal Products in the Pediatric Population* (December 2000), *E11(R1) Addendum: Clinical Investigation of Medicinal Products in the Pediatric Population* (April 2018), *Considerations for the Inclusion of Adolescent Patients in Adult Oncology Clinical Trials* (March 2019), and *Pediatric Information Incorporated into Human Prescription Drug and Biological Product Labeling* (March 2019).

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- Data and information that describe the potential for differential safety and effectiveness of the investigational drug across the clinically relevant population (e.g., differences in pharmacokinetics [PK]/ [pharmacodynamics [PD]]).
- Data regarding genetic differences in PK, PD, safety, or effectiveness (e.g., genetic variations, which may vary based on ancestry, that impact drug metabolism or susceptibility to adverse reactions).
- As applicable, the relevancy of other population-level or individual characteristics that available data suggest have an impact on the clinical outcomes (e.g., socioeconomic status, geographic location, comorbidities).
- **For medical devices the rationale should include:**
  - Data and information that describe the potential for differential safety and effectiveness of the device across the clinically relevant populations.
  - Available data regarding genetic differences that may impact safety or effectiveness (e.g., genetic variations, which may vary based on ancestry, that are expected to impact clinical outcomes or susceptibility to adverse events).
  - Data on relevant factors for device performance (e.g., phenotypic, anatomical, technological, or biological factors) should be evaluated to characterize any differential effects across a diverse population by the relevant demographic characteristics; The rationale should describe how the sponsor considered the available information when setting the enrollment goals.
  - As applicable, the relevance of other population-level or individual characteristics that available data suggest may have an impact on the clinical outcomes (e.g., socioeconomic status, geographic location, comorbidities).

The DAP should include citations for the sources of data and information upon which the enrollment goals are based.

### **MEASURES TO MEET ENROLLMENT GOALS**

The DAP must include an explanation of how the sponsor plans to meet the specified enrollment goals.<sup>82</sup>

- The DAP should include a description of the enrollment and retention strategies for the study population (focus is on measures that address diversity and representativeness of participants enrolled in a specific clinical study).<sup>83</sup>
- The DAP should include a description of the plan to monitor enrollment goals during the conduct of the clinical study to ensure that goals are met.

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<sup>82</sup> Section 3602(a)(1)(B) of FDORA.

<sup>83</sup> Section 3602(a)(1)(B) of FDORA.