Appendix to Letter Dated March 31, 2016

1. Sec. 2.

Sec. 351B. ARM would be pleased to work toward an appropriately developed program to provide mechanisms for faster time to market for safe and effective products (e.g., expedited approval, accelerated approval, conditional approval). As written, this section is concerning.

(a) Conditional Approval of Cellular or Tissue Therapeutic

a. The standards for approval are undefined and vague.

b. The section seems to prohibit FDA from ever being allowed to require a Phase III trial.

(b) Additional Requirements for Conditional Approval.

a. By excluding genetically modified cells, the section suggests that genetically modified cell therapies are problematic.

b. The language addresses immunogenicity but not tumorigenicity.

c. The 5 year limit was removed.

d. Requiring collection of data based on post conditional commitments isn't sufficient. FDA should have explicit authority to revoke conditional approval for safety reasons, etc.

e. Labeling requirements should identify the specific use and define limitations on out outside of the labeled indication.

f. What happens at the end of 5 years if the sponsor has filed a BLA? Is the product still on the market? Under what status?

g. The bill opens the door to "evergreening"; securing additional 5 year period by applying for approval for new indications.

(c) Informed Use.

a. Informed consent provision warns patients about limited data on efficacy but not limited data on safety.

b. Rather than "individual who uses a product" why not say "patient".

2. Sec. 3

a. ARM continues to have concerns with this section. It sets a dangerous precedent to put device classification specific requirements in the statute rather than addressing through rulemaking.

b. Approval of a device should be based on in vivo testing as well as in vitro testing.

c. Disallowing clinical testing for certain products, without providing FDA with sufficient flexibility is not in the interests of public health.

d. The bill limits sponsors' existing discretion to determine the appropriate regulatory pathway i.e., whether to seek approval for the cell therapy combination product through one application or two separate applications

e. The bill would enable a device used to isolate and process cells to not be subject to premarket clearance or approval.

3. Sec. 4
ARM supports an FDA public meeting as in the bill.

4. Sec. 5
ARM supports the provision for standards development for regenerative medicine.