

**UNIVERSITY OF TENNESSEE HEALTH SCIENCE CENTER
INSTITUTIONAL REVIEW BOARD
HUMANITARIAN USE DEVICES (HUD)**

I. PURPOSE

To document the review procedures for applications to utilize Humanitarian Use Devices.

II. SCOPE

This SOP applies to the IRB administrative staff, IRB members, investigators and sponsors.

Personnel Responsible:

University of Tennessee Health Science Center Institutional Review Board administrative staff, members, applicants.

III. BACKGROUND

A humanitarian use device (HUD) is one that is intended to benefit patients by treating or diagnosing a disease or condition that affects fewer than 4,000 individuals in the United States in a calendar year. The FDA authorizes the marketing of HUDs through the issuance of a Humanitarian Device Exemption (HDE). HDEs are intended to encourage the discovery and use of devices intended for the treatment or diagnosis of diseases or conditions that afflict small numbers of individuals who would be left without satisfactory treatment options in the absence of the availability of such devices. HDEs accomplish this goal by allowing device manufacturers to market a HUD in the absence of scientifically valid clinical investigations demonstrating that the device is effective for its intended purpose. Rather, the manufacturer must only provide information indicating that the device will not expose patients to an unreasonable or significant risk, the probable benefit to health outweighs the risks associated with its use, and there is no comparable device available.

Although use of HUDs does not constitute research, FDA regulations governing their use require that the healthcare provider who will use an HUD obtain IRB approval before the HUD is used to treat or diagnose patients. The IRB is responsible for both initial and continuing review of the HUD use. In conducting its initial review, the IRB must determine

that use of the HUD will be consistent with the approved labeling for the device. For continuing review, the IRB must follow the requirements at 21CFR56, but may use expedited review procedures unless it determines that full board review should be performed. The IRB may also use its discretion in determining whether to approve the use of an HUD for a given period of time, for a specified number of patients, or on a case-by-case basis. However, the HUD regulations require that the use of the HUD be reviewed by the IRB no less frequently than once a year. After approval by the IRB, the regulations require that the healthcare provider transmit to the IRB any medical device reports related to the occurrence of adverse events that must be submitted to the FDA in compliance with the reporting requirements of 21CFR803.

The HUD regulations do not address informed consent requirements for the use of a HUD. However, local IRB policy and applicable law require the informed consent of patients who will receive a HUD. The informed consent disclosure must indicate that the device is a HUD and that its effectiveness for the labeled indication has not been demonstrated. It must also contain a discussion of the potential benefits and risks of receiving the device and the availability of alternative treatments for the disease or condition.

Any clinical investigation of an HUD requires a separate IRB application and approval.

In Accordance With:

21CFR50; 21CFR56; 21CFR803; 21CFR 814, Subpart H

FDA Guidance on Humanitarian Device Exemption (HDE) Regulation: Questions and Answers, located at <http://www.fda.gov/cdrh/ode/guidance/1381.pdf>

FDA Guidance for IRBs, Clinical Investigators, and Sponsors: Frequently Asked Questions About Medical Devices, located at <http://www.fda.gov/oc/ohrt/irbs/irbreview.pdf>

Compliance with this policy also requires compliance with state or local laws or regulations that provide additional protections for human subjects.

IV. PROCEDURES

1. Full Board review is required for any application to employ a humanitarian use device.
2. Investigators must provide the following documents when submitting an application to use a HUD:
 - a. Form 1 study application;
 - b. FDA HDE letter authorizing marketing of the Humanitarian Use Device;
 - c. The HUD manufacturer's product label, clinical brochure and/or other pertinent information regarding operation of the device;
 - d. A summary of safety and probable benefits from the device manufacturer;
 - e. A written statement from the applicant specifying that use of the HUD will be limited to the clinical indications listed in the FDA-approved product labeling;
 - f. Information describing the applicant's clinical experience with the device, any training completed or required, and a list of physicians who will be using the device;
 - g. Prior annual reports of the manufacturer regarding the use of the device;
 - h. An explanation of the costs that patients will incur with use of the device;
 - i. A letter from the purchasing department of the institution in which the device will be used indicating that the company is an approved institutional vendor;
 - j. If the cost of the device exceeds \$250, a copy of a report by an independent certified public accountant, or an attestation by a responsible individual in the manufacturer's organization, verifying that the amount charged for the device does not exceed the cost of research, development, fabrication, and distribution;
 - k. Written notification from the finance department of the institution in which the device will be used that all reimbursement issues for the HUD have been resolved; and
 - l. Any advertisements or other descriptive materials that might be used in marketing the HUD.
3. The informed consent of the patient or the patient's legally authorized representative is required prior to the use of the HUD. The consent disclosure must contain the following items:
 - a. A description of the HDE/HUD approval process:

"Your medical care will involve the use of (specify device), which has been approved by the U.S. Food and Drug Administration (FDA) as a humanitarian use device (HUD). A HUD is a device used to diagnose or treat a disease or condition that affects fewer than 4,000 people in the United States each year. There is also no other device like the HUD that can treat this disease or condition. The FDA approves the clinical use of a HUD based on evidence that it does not pose a significant or unreasonable risk of injury for the patient. The FDA also believes that the potential benefit of the device to the health of the patient outweighs the risks of its use. The FDA approval of a HUD is based on limited information about how effective this device is in humans."

- b. A description of the HUD and how this device will be used in the clinical setting and why the patients are candidates for the use of this device;
 - c. A discussion of possible risks, side effects and/or adverse events associated with the HUD and its proposed clinical use;
 - d. A discussion of the possible benefits associated with the clinical use of the HUD;
 - e. A discussion of any alternative treatments or procedures that the patient may wish to consider in lieu of the clinical application of the HUD; and
 - f. A statement that consent to receive the device is voluntary and a description of the procedures to be followed if the patient decides to discontinue use of the device.
4. At the time of initial review, the IRB will determine whether any further limitations will be placed on the use of the device beyond those specified in the approved labeling, such as use according to a specific protocol. However, any use inconsistent with the FDA-approved labeling is not permitted.
 5. Applicants will be required to submit a continuing review report according to a time frame determined by the IRB, but at least annually. This report will include information describing the applicant's clinical experience(s) with the device.
 6. The healthcare provider must also submit the following items to the IRB on a timely basis:
 - a. Any amendments or supplements to the HDE;
 - b. Annual reports from the HDE holder;

- c. Any reports of adverse effects or device failures submitted to the FDA as required under 21CFR803;
 - d. Any results of further animal, laboratory or clinical testing that may affect the risk-benefit ratio for use of the device;
 - e. Any final report from the IDE sponsor; and
 - f. A final report from the applicant.
7. If the HUD is used in an emergency situation (off label) to save the life or protect the physical well being of a patient, the procedures outlined in FDA regulations and local IRB policy must be followed as specified in SOP #23.
8. If the HUD is employed for compassionate use, the procedures outlined in FDA regulations and local IRB policy must be followed as specified in SOP #24.
9. All documentation regarding review and approval of the use of the HUD will be maintained in a separate file according to the same record-keeping requirements as for research studies.