The Christ Hospital IRB **Number:** 3.21
Submitted By: Erica Jones, CIP **Effective Date:** 06/09
Approved By: Steve Roberts, MD **Revision Date:** 12/25

STANDARD OPERATING PROCEDURE

Humanitarian Use Device

1.0 PURPOSE

The purpose of this policy is to establish procedures for the review, approval, and continuing review of Humanitarian Use Devices (HUDs) under an FDA-approved Humanitarian Device Exemption (HDE) at The Christ Hospital.

2.0 OVERVIEW

A Humanitarian Use Device (HUD) is a medical device intended to benefit patients in the treatment or diagnosis of a disease or condition that affects or is manifested in not more than 8,000 individuals in the United States per year (reference 21 CFR 814.3(n). A HUD is approved for marketing through a Humanitarian Device Exemption (HDE) application.

2.1 An HDE application is a type of marketing application that is exempt from effectiveness requirements and is subject to certain profit and use restrictions. This application must include the following specific information to satisfy the HUD statutory requirements:

2.1.1 The device is to be used to treat or diagnose a disease or condition that affects or is manifested in less than 8,000 individuals in the U.S. per year;

2.1.2 The device would not otherwise be available unless an HDE application was approved;

2.1.3 No comparable device (other than another HUD-approved device or a device being studied under an Investigational Device Exemption (IDE) is available to treat or diagnose the disease or condition; and

2.1.4 The device will not expose patients to an unreasonable or significant risk of illness/injury, and the probable benefit to health from using the device outweighs the risk of injury or illness from its use, taking into account the probable risks and benefits of currently available devices or alternative forms of treatment.

2.2 The FDA does not require IRB approval of informed consent before a HUD is used because a HDE, which provides for temporary marketing approval, does not constitute research. However, the IRB may require that informed consent be obtained in any situation it deems appropriate.

3.0 POLICY

3.1 An HUD that has been granted a Humanitarian Device Exemption (HDE) by the FDA may be administered only if such use has been approved by the Institutional Review Board (IRB). Once IRB approval has been granted, use of the HUD within the approved indication(s), as well as other clinical uses that are intended solely to address the specific needs of an individual patient is allowed at the institution.

3.2 In an emergency situation, a HUD may be administered off-label without prior approval by the IRB, if IRB approval cannot be obtained in time to prevent serious harm or death to a patient. In this instance, the physician must follow the emergency use procedures outlined in The Christ Hospital (TCH) IRB SOP 1.10 "Emergency Use of an Investigational Drug, Biological Product, or Device".

4.0 PROCEDURE

See Figure 1: HUD Decision Tree (page 7) for determining whether HUD use constitutes Emergency Use, Standard IRB Submission for Clinical Research, or Standard Humanitarian Use of the HUD.

4.1 Initial Submission – Submitting Physician

For initial review of the proposed HUD clinical use, the submitting physician or authorized designee must:

4.1.1 Create a new Humanitarian Use Device submission through the web-based IRB submission system, Mentor IRB, and include the following submission documents and information:

4.1.1.1 The FDA HDE (Humanitarian Device Exemption) number and approval letter,

4.1.1.2 A description of the device,

4.1.1.3 Product labeling,

4.1.1.4 Clinical brochure, and

4.1.1.5 Patient information packet that may accompany the HUD;

4.1.2 Confirm initial TCH IRB approval for clinical use of the HUD at the institution prior to use;

4.2 Post-Approval Requirements – Submitting Physician

4.2.1 Obtain and document clinical informed consent, if applicable, as required by the institution. Note: When the use of a HUD is only for clinical diagnosis or treatment and is not associated with human subject research activity, research informed consent and HIPAA regulations do not apply.

4.2.2 Provide patient information packets (when available) to patients prior to their receiving the HUD. If no packet is available, the patient should be provided with the following information:

4.2.2.1 An explanation that the HUD is designed to diagnose or treat the disease or condition described in the HDE labeling and that no comparable device is available to treat the disease or condition,

4.2.2.2 A description of any ancillary procedures associated with the use of the HUD,

4.2.2.3 A description of the use of the HUD,

4.2.2.4 All known risks and discomforts, and

4.2.2.5 Information reflecting the HUD status of the device including a statement indicating that the effectiveness of the device for this use has not been demonstrated;

4.2.3 Comply with requirements for continuing review at the intervals determined by the IRB;

4.2.4 Comply with the following reporting requirements:

4.2.4.1 Submit the applicable forms to the FDA, TCH IRB, and manufacturer whenever a HUD may have caused or contributed to a serious injury (21 CFR 803.30 and 814.126(a)). Serious injury means an injury or illness that (1) is life-threatening, (2) results in permanent impairment of a body function or permanent damage to a body structure, or (3) necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure (21 CFR 803.3),

4.2.4.2 Promptly report any FDA action(s) regarding the HUD to the IRB,

4.2.4.3 Promptly report any modifications to the HUD or the clinical use of the HUD in accordance with the IRB procedures, and

4.2.4.4 Notify the FDA of any withdrawal of approval for the use of a HUD by the IRB within 5 working days after being notified of the withdrawal of approval.

4.3 Initial Review – IRB Office

4.3.1 Assigns Humanitarian Use Device requests to the Full Board Panel, thus placing the protocol on the next meeting agenda for review;

4.3.2 Ensures that the submission is complete and available in its entirety in Mentor IRB for IRB member review approximately one week prior to the convened meeting date;

4.3.3 Assigns the IRB Chair and any other Primary Reviewer the "IRB: Humanitarian Use Device Checklist" prior to the convened IRB meeting;

4.3.4 Records and composes the IRB meeting minutes, ensuring that the following are sufficiently documented:

4.3.4.1 IRB discussion,

4.3.4.2 any controverted issues, and

4.3.4.3 IRB determinations;

4.3.5 Communicates all IRB determinations through Mentor IRB in a notification letter sent to the submitting physician and any research coordinator(s) as outlined in SOP 1.04, "Conducting IRB Meetings / IRB Meeting Minutes", and in accordance with the following:

4.3.5.1 Decisions from a full board meeting will be verbally available the next day, and

4.3.5.2 Written communications are not released until the minutes of the meeting are reviewed and approved by the IRB chair, which typically necessitates a period of three (3) working days from the IRB meeting date;

4.3.6 Ensures that determination letters outline the approval status and/or the concerns, questions, and/or comments of the IRB.

4.3.6.1 For HUD requests that are approved for use at the site by the IRB, includes the date of continuing review.

4.3.6.2 For HUD requests that are disapproved by the IRB, includes the IRB's rationale for the decision and provides the submitting physician an opportunity to respond in writing to the IRB regarding the IRB's determinations.

4.4 Initial Review – IRB Chair

4.4.1 Serves as a primary reviewer and/or delegates the responsibility to another qualified IRB member;

4.4.2 Reviews the submission material using the IRB Checklist to ensure the required information, satisfying regulatory requirements;

4.4.3 Contacts the PI and/or research coordinator with questions and/or any clarification/documentation, as needed, regarding the vulnerable population;

4.4.4 Assures that the IRB discusses additional safeguards according to the IRB checklist;

4.4.5 Reviews the IRB meeting minutes to ensure that the following are sufficiently documented:

4.4.5.1 IRB discussion,

4.4.5.2 Any controverted issues,

4.4.5.3 IRB determinations; and

4.4.6 Reviews any IRB-requested minor modifications and, if approved, grants final approval of the changes.

4.5 Initial Review – IRB

Initial review and approval of a HUD requires convened IRB review. For initial review of the proposed HUD use, the convened IRB must:

4.5.1 Review the submission documents and information provided by the submitting physician;

4.5.2 Verify that the use of the HUD, as proposed, is congruent with current labeling of the device and does not exceed the scope of the FDA-approved indication(s) including that the labeling for the HUD states that the device is a Humanitarian Use Device and that although the device is authorized by federal law, the effectiveness of the device for the specific indication has not been demonstrated;

4.5.3 Imposes more stringent restrictions, if deemed necessary, for use of the HUD as a means of additional protections;

4.5.4 Takes the following actions, as applicable:

4.5.4.1 Approve,

4.5.4.2 Approves with modifications (contingently approve),

4.5.4.3 Disapproves the use of the HUD at TCH, or

4.5.4.4 Defer (table) the matter to another meeting.

4.6 Continuing Review

4.6.1 Continuing review will be conducted, at a minimum, annually.

4.6.2 The submitting physician completes and submits a continuation form in Mentor IRB for review, and by the due date set in Mentor IRB including a summary of all uses of the HUD for clinical treatment and diagnosis at the institution.

4.6.3 Continuing review may be performed through Expedited Review procedures, unless the convened IRB determines that Full Board Review is necessary.

4.6.4 The continuing review procedures are completed as detailed in IRB SOP 1.01, "Continuing Review".

4.7 Manufacturer Modifications to the HUD or Device Labeling

4.7.1 IRB approval is required for any modifications of the device and/or proposed clinical use of the device.

4.7.2 The submitting physician or authorized designee must create an amendment in the Mentor main protocol page describing the modifications to the device and/or the proposed clinical use of the device and the rationale for such modifications as well as a copy of the HUD manufacturer's amendments to the HUD product labeling, clinical brochure, and/or other pertinent manufacturer informational materials corresponding to the requested modifications.

4.7.3 Amendment review procedures are completed as detailed in IRB SOP 2.03, "Proposed Amendments/Modifications in Previously Approved Research Studies".

4.8 Emergency Use of an HUD

If IRB approval cannot be obtained in time to prevent serious harm or death to a patient, a HUD may be administered without prior approval by the IRB. In such an emergency situation, the HDE holder or authorized designee must, within 5 days after the use of the device, provide written notification to the IRB chair as detailed in IRB SOP 1.10, "Emergency Use of an Investigational Drug, Biological Product, or Device".

5.0 REFERENCES

5.1 The Christ Hospital IRB Standard Operating Procedures

5.1.1 SOP 1.01 Continuing Review

5.1.2 SOP 1.04 Conducting IRB Meetings / IRB Meeting Minutes

5.1.3 SOP 1.10 Emergency Use of an Investigational Drug, Biological Product, or Device".)

5.1.4 SOP 2.03 Proposed Amendments/Modifications in Previously Approved Research Studies

5.2 Code of Federal Regulations, U.S. Food and Drug Adminstration (FDA)

5.2.1 21 CFR 803.3

5.2.2 21 CFR 803.30

5.2.3 21 CFR 814.124

5.2.4 21 CFR 814.126(a)

5.2.5 21 CFR 814.3(n)

5.2.6 Guidance: Humanitarian Device Exemption (HDE) Program – Guidance for Industry and Food and Drug Administration Staff, issued September 6, 2019

5.3 AAHRPP Domains and Elements:

5.3.1 I.7.A.
5.3.2 I.7.B.
5.3.3 I.7.C.

Figure 1: HUD Decision Tree

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