Background

**Humanitarian Use Device (HUD):** A device intended to benefit patients by treating or diagnosing a disease or condition that affects or is manifested in not more than 8,000 individuals in the United States per year.

**Humanitarian Device Exemptions (HDE):** An application issued by the FDA authorizing marketing of the HUD.

Humanitarian Use Devices are regulated under 21 CFR 814 (Subpart H).

Applying for an Humanitarian Device Exemption (HDE)

To obtain approval for an HUD for clinical use, an HDE application is submitted to FDA. The HDE application:

- **Must contain** sufficient information for FDA to determine that:
  - The device is designed to treat or diagnose a disease or condition that affects not more than 8,000 individuals in the United States on an annual basis.
  - The device will not expose patients to an unreasonable or significant risk of illness or injury.
  - The probable benefit to health from use of the device outweighs the risk of injury or illness from its use while taking into account the probable risks and benefits of currently available devices or alternative forms of treatment.
  - The device would not be available to a person with the disease or condition in question without the HDE, and no comparable device, other than another device approved under an HDE or Investigation Device Exemption (IDE), is available to treat or diagnose such disease or condition.

- **Is not required to contain** the results of scientifically valid clinical investigations demonstrating that the device is effective for its intended purpose.

Criteria for HUD Use

All Non-Research and Research HUD use requires prospective IRB review and approval (except Emergency Use). New HUD use applications are submitted via eProtocol for regular review by the convened IRB.

Non-research (Clinical) use:

- The HUD may be used only after IRB approval has been obtained for the use of the device for the FDA approved indication.
- The IRB may require patients receive a written document prior to use of the HUD, this document should include much of the information found in the HDE patient labeling. This document can be patient information packet or IRB approved consent form. In the FDA’s HDE Program Guidance, see page 26 under Information to Patients on information that should be included in the consent form/patient information packet: https://www.fda.gov/media/74307/download
- HUD use is subject to continuing review and approval by the IRB; if applicable, the expedited procedure may be used at continuing review.
- All adverse events, whether expected or not, must be reported and evaluated in accordance with MDR requirements 21 CFR part 803. When available, the holder of the HDE must provide the medical device report (MDR) to the IRB.
- Medical device reports (MDR) must be submitted to the FDA and to the IRB promptly in accordance with 21 CFR 803.30 when:
  - The HUD may have caused or contributed to death or serious injury; or
  - The HUD has malfunctioned and likely cause or contribute to death or serious injury in the future if the malfunction recurs.
  - Per 21 CFR 803.3(w), serious injury is defined as an injury or illness that:
    - Is life threatening;
    - Results in permanent impairment of a body function or permanent damage to a body structure; or
    - Necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.
  - If the MDR contains the above, submit a Prompt Report to the IRB.

- To use a HUD for a new indication (e.g., for a different disease or condition), a new designation of HUD status must be obtained (i.e., a new HDE submitted to the FDA); see 21 CFR 814.110.
- Modifications to the HDE may require FDA review of 30 or 75 days. See FDA Guidance: https://www.fda.gov/regulatory-information/search-fda-guidance-documents/30-day-notices-135-day-premarket-approval-pma-supplements-and-75-day-humanitarian-device-exemption

Research (Clinical Investigation) of a HUD (i.e. studying the safety and effectiveness):
For research under a HDE, the scope of the IRB approval is to confirm the planned use is consistent with the FDA-approved indication for the HDE. Data may be collected in a clinical investigation for the HDE approved indication(s) without an IDE.

Researchers who want to determine the safety or effectiveness of the HUD for a different indication than the HDE-approved indication(s), must submit an IDE application to FDA if the device is a significant risk device. The investigational use of a HUD under these circumstances is a clinical investigation and must be conducted in accordance with 21 CFR Parts 812, 50, 54, and 56, and a full IRB application should be submitted.

- If the HUD is being investigated in a clinical study under an IDE, adverse events that occur during the study should be reported in accordance with 21 CFR 812.150(a)(1) and 812.150(b)(1).
Decision Tree for IRB when Reviewing Applications for HUD Use

Resources: Regulations and Guidance

- **FDA**
  - 21 CFR 814 (Subpart H) Humanitarian Use Devices
  - Humanitarian Device Exemption
  - HDE Approvals
  - Guidance for HDE Holders, Institutional Review Boards (IRBs), Clinical Investigators, and FDA
  - Staff - Humanitarian Device Exemption (HDE) Regulation: Q & A
  - 21 CFR 803 Medical Device Reporting

Resources: Other References

- **Stanford HRPP**
  - HRPP Chapter 5.10 - Orphan Products: Humanitarian Use Device (HUD); Orphan Drugs
  - Emergency Use of a Test Article [GUI-6]