HUMANITARIAN USE DEVICE CLINICAL USE POLICY

This revised policy:

a. Clarifies that the policy applies to clinical uses of a HUD; it does not apply to research uses of a HUD;
b. Allows a HUD to be re-reviewed at continuing review using expedited review procedures if the HUD use meets certain criteria;
c. Clarifies that a Research Subject Authorization Form is NOT need for clinical uses of a HUD;
d. Removes the 6 month annual review requirement; and
e. Introduces a new HUD Submission Form for Clinical Use.

I. PURPOSE

The purpose of this policy is to ensure that all humanitarian use devices (HUDs) used at GWU for clinical purposes are prospectively approved by the George Washington University, Committee on Human Research, Institutional Review Board (GWU IRB) and comply with regulatory requirements. The only exception to prospective IRB approval is emergency use of a HUD, see section VII below. A HUD is a medical device intended to benefit patients by treating or diagnosing a disease or condition that affects or is manifested in fewer than 4,000 individuals in the United States per year. A HUD is approved for marketing through a humanitarian device exemption (HDE) application.

II. SCOPE

This policy applies to all GWU faculty or staff, including GWU, Medical Faculty Associates (MFA), or GWU Hospital faculty, staff or students, who propose to use a HUD at GWU for clinical purposes. This policy does not apply to GWU faculty, staff or students interested in conducting clinical investigations involving HUDs, i.e., collecting additional safety and effectiveness data in support of a marketing application.

Whenever a HUD is the subject of a clinical investigation, the HUD must be studied/used in accordance with all applicable GWU IRB Policies and Procedures, e.g., submitting a completed Medical IRB Submission Form, obtaining informed consent (in accordance with 21 CFR Part 50) and research subject authorization (in accordance with 45 CFR Part 164) from subjects prior to the research use of a HUD, etc. Given that the general GWU IRB Policies and Procedures govern the research use of a HUD, this policy only focuses on procedures that must be followed in order for the GWU IRB to approve/re-approve the clinical use of a HUD at GWU.

III. POLICY
The GWU IRB may approve the use of a HUD for clinical use, but only after the HUD has undergone full committee initial review. The GWU IRB may re-approve the use of a HUD at continuing review using expedited review procedures if: (1) the use falls within one of the expedited continuing review categories; and (2) the IRB determines that full board review is not needed. GWU IRB approval of a HUD will not exceed the scope of the FDA approved indication(s); however, the GWU IRB approval may limit the scope of the FDA approved indications if the IRB feels such limitation is appropriate. For example, the GWU IRB may limit use of the HUD to a particular medical speciality, prior use and failure of any alternative treatment modalities, and/or reporting requirements to the GWU IRB.

Each use of a HUD that falls within the FDA approved indication(s) and IRB limitation(s) (if applicable) must be reported to the GWU IRB at the time of continuing review. Any use of a HUD that falls outside the FDA approved indications and IRB limitation(s), if applicable, must be reported to the GWU IRB immediately following such use. The report must explain the circumstances necessitating the non-approved clinical use and the clinical outcome of the use of the HUD.

According to FDA, a HUD used in accordance with its approved indications constitutes clinical use/treatment; rather than research or an investigation. As a result, compliance with informed consent requirements (21 CFR Part 50) and research subject authorization requirements (45 CFR Part 164) IS NOT REQUIRED before a HUD is used, unless the HUD is the subject of a clinical investigation. (See explanation above under SCOPE.) Although a traditional informed consent is not required prior to a HUD clinical use, the GWU IRB has determined that a Clinical Informed Consent Form for HUD Use, outlined below, must be signed by the patient prior to use of the HUD at GWU, when practicable.

IV. PROCEDURES FOR IRB REVIEW AND APPROVAL OF A HUD FOR CLINICAL USE

A. Initial IRB Review/Approval. The physician/health care provider requesting initial clinical use of a HUD at GWU must submit the following:
   1. 15 copies of a completed HUD Submission Form For Clinical Use, available at http://www.gwumc.edu/research/forms.htm, including all required documents/signatures. Please note that this HUD Submission Form requires the requesting physician/health care provider to obtain authorization from the facility in which the HUD will be used.
   2. 15 copies of the FDA HDE approval letter;
   3. 3 copies of the HUD product labelling, clinical brochure, and/or other pertinent manufacturer informational materials; and
   4. 15 copies of the HUD Clinical Consent Form/Information Sheet. A HUD clinical consent form (vs. research) shall address the proposed clinical use of the HUD. Please keep in mind that a HUD is FDA approved for clinical use (vs. research); thus, the use of research related terms such as “research” and “study” should be
avoided. The HUD clinical consent forms should be modelled after other clinical consent forms to include, at a minimum, the following information:

i. A description of the HDE/HUD approval process, e.g. “Your medical care will involve the use of (specify device), which has been approved by the Food and Drug Administration (FDA) as a Humanitarian Use Device (HUD) for (specify the intended use). A HUD is a medical device intended to benefit patients by treating or diagnosing a disease or condition that affects or is manifested in fewer than 4,000 individuals in the United States per year. FDA approved the use of (specify device) based on evidence indicating that the device will not expose the patient (i.e., you) to a significant risk of illness or injury and that the probable benefit to the patient’s health (i.e., your health) outweighs the risk from its use. FDA did not necessarily approve the use of (specify device) based on evidence indicating that the HUD will be effective for its intended use. FDA, nevertheless, approved the use of the device because there is no other comparable device available to treat or diagnose your (specify disease or condition) at this time.”

ii. A description of the HUD and how the HUD will be used in the clinical setting. This information can be obtained from the FDA HDE Approval Letter and/or the HUD device labelling, clinical brochure, and/or other manufacturer materials, and GWU, CHR, IRB limitations, if any. Based on this description, it should be clear to the patient why he/she is a candidate for the use of the device.

iii. A discussion of possible risks, side effects, and/or adverse events associated with the HUD and its proposed clinical use.

iv. A discussion of the possible benefits associated with the use of the HUD.

v. A discussion that there are no other comparable devices available for treating or diagnosing the patient’s disease or condition;

vi. A statement regarding who is responsible for the costs associated with the use of the HUD and the surgical procedures needed for implantation of the HUD, if applicable, e.g., “If your insurance company does not pay for the procedure or the device, you will be responsible for such costs. If your insurance company only pays a portion of the costs associated with the use of the device, you will be responsible for whatever costs your insurance does not cover.”

vii. Voluntary consent statement(s) with patient signature and date of signature.

b. Physician/health care provider certification statement with physician/health care provider signature and date of signature.

B. Continuing IRB Review/Approval. A physician/health care provider requesting continued clinical use of a HUD at GWU must submit either 1 copy (expedited review) or 15 copies (full committee review) of the following:
1. A completed Continuing Review Data Collection and Study Termination Form including the following additional information for HUD use:
   a. A summary of all correspondence received from the HDE holder/sponsor since initial or last continuing review, if applicable; and
   b. For each patient in whom the HUD has been used:
      i. The clinical indications for the use of the HUD; and
      ii. The clinical outcome of the use of the HUD.
2. The current FDA-approved product labelling for the HUD, if modified since last review; and
3. If still clinically using the HUD, the current clinical informed consent form (unstamped).

V. MODIFICATIONS TO THE HUD OR CLINICAL USE(S) OF THE HUD

The GWU IRB must prospectively approve all proposed modifications to a HUD and/or its clinical use(s) except when a proposed change is necessary to eliminate apparent immediate hazards to the patients. In such a situation, the GWU IRB must be informed of the change in writing within 5 days following its implementation.

A physician/health care provider requesting modification to either the HUD or the clinical use(s) of the HUD must submit either 1 copy (expedited review) or 15 copies (full committee review) of the following:

1. A cover letter signed by the responsible physician/healthcare provider, describing the modification to the HUD and/or the proposed clinical use(s) of the HUD and the rational for such modification(s);
2. The HUD manufacturer’s amendment to the HUD product labelling, clinical brochure, and/or the pertinent manufacturer informational materials corresponding to the requested modification(s);
3. Any FDA HDE amendment/supplement approval letters; and
4. If the modification requires changes to the clinical consent form, copy(ies) of the original clinical consent form with the requested modifications highlighted and copy(ies) of a non-highlighted modified clinical consent form with a new version date.

VI. REPORTABLE EVENTS

A. Serious Adverse Events. Whenever the physician/health care provider who requested clinical use of the HUD at GWU receives or becomes aware of information that reasonably suggests that a HUD has or may have caused or contributed to the death or the serious injury of a patient, the physician/health care provider shall:
1. Submit to the GWU IRB either a completed SAE Notification Form for GWU Subjects or IND Notification Form in accordance with the GWU IRB Reportable Events Policy.

2. If the serious adverse event occurred in the GWU Hospital, notify the GWU Hospital Medical Director in accordance with the GWU Hospital Medical Device Reporting Policy. This notification to the GWU Hospital Medical Director is the responsibility of the physician/health care provider requesting HUD use.

Please note that the above referenced reporting is an addition to, not a substitute for, FDA and/or manufacturer reporting as outlined in 21 CFR 803.30.

B. FDA Actions. The physician/health care provider who requested clinical use of the HUD at GWU must promptly report to the GWU IRB any FDA action(s) taken regarding the HUD for which he/she has become aware. This report, which shall be in the form of a memorandum to the Chair of the GWU IRB, shall be forwarded to the Chair within 10 days of receiving knowledge of such FDA action. Depending on the FDA action taken, the Chair may elect to initiate an immediate IRB action (e.g., withdraw IRB approval of use of the HUD because FDA rescinded the HDE due to the availability of a comparable device) or await action until the full IRB has discussed the FDA action taken on the HUD (e.g., modifying the clinical use of the HUD because FDA has done so). Any immediate action taken by the Chair of the IRB will be discussed and voted on at the next IRB meeting.

VII. EMERGENCY USE OF A HUD

A HUD may be used off-label (outside its approved indications for use) in an emergency situation, i.e., to save the life or protect the physical well being of a patient. The treating GWU physician/health care provider should ensure that the following patient protection measures are followed before and after the emergency use occurs:

A. Before the HUD emergency use occurs. If possible, the physician should obtain the following:
   1. Concurrence of the GWU CHR/IRB chairperson;
   2. Informed consent from the patient or his/her legal representative;
   3. An independent assessment by an uninvolved physician; and
   4. Authorization from the HDE holder before emergency use of the HUD.

B. After the HUD emergency use occurs. The treating GWU physician/health care provider shall submit a follow-up report on the patient’s condition and information regarding the patient protection measures that were followed to the GWU IRB and the HDE holder.
If the emergency use of the HUD occurs in the GWU Hospital, the above-referenced emergency use reporting is an addition to, not a substitute for, the GWU Hospital Emergency Use Reporting Policy. Emergency Use Reporting of a HUD to the GWU Hospital is the responsibility of the physician/health care provider requesting HUD use.

For further guidance on emergency use of a HUD, please see ‘Emergency Use of Unapproved Medical Devices’ within Chapter III of the “IDE Policies and Procedures Guidance” at www.fda.gov/cdrh/ode/idepolicy.html.

VIII. COMPASSIONATE USE OF A HUD

A HUD may be used off-label for compassionate use, i.e., when a HUD is the only option available for a patient(s) faced with a serious, non-life threatening condition. Before compassionate use of a HUD occurs, the treating GWU physician/health care provider shall:

A. Provide the HDE holder with the following:
   1. A description of the patient’s condition and the circumstances necessitating treatment with the device;
   2. A discussion of why alternative therapies are unsatisfactory; and
   3. Information addressing the applicable patient protection measures that will be followed. The HDE holder should, in turn, submit this information in an HDE amendment for FDA approval before the use occurs.

B. Ensure that FDA approval of compassionate use of the HUD is obtained prior to its use. If FDA approves the HUD compassionate use request, the physician/health care provider shall devise an appropriate schedule for monitoring the patient, taking into consideration the limited information available regarding the potential risks and benefits of the device and the specific needs of the patient.


C. If the compassionate use of the HUD occurs in the GWU Hospital, obtain GWU Hospital Administration Approval for the use.