

Policy Number: 42

Title: Investigational Devices

Date of Last Revision: 06/12/2008; 07/22/2010; 05/29/2013; 05/01/2016; 10/16/2018

Policy:

It is the policy of the UC Irvine (UCI) Institutional Review Board (IRB) that all investigational device use be reviewed and approved by the IRB in accordance with applicable laws and regulations.

The Investigational Device Exemptions (IDE) regulation 21 CFR 812 describes three types of device studies; Significant risk (SR), Nonsignificant risk (NSR), and Exempt studies.

I. SR vs. NSR Devices

- A. Unless exempt by the IDE regulations, an investigational device must be categorized as either a SR device or a NSR device. The initial risk assessment should be determined by the Sponsor, with the IRB making a formal SR/NSR determination during a convened meeting (*see below*).
- B. The FDA is the final arbiter as to whether an investigational device is SR or NSR device. The FDA is available for consultation.
- C. For SR devices a copy of the FDA approval of an Investigational Device Exemption must be submitted to the IRB before UCI IRB approval will be granted.
- D. Research involving the use of a SR device must be conducted in accordance with the full requirements of the FDA and must have an approved Investigational Device Exemption (IDE) from the FDA.
- E. For NSR devices, if the FDA has made an NSR determination and the research poses no greater than minimal risk, the study may be submitted for expedited review. If the FDA has not previously made a NSR determination, the study must be reviewed during a convened meeting with the IRB making the formal SR/NSR determination.
- F. If the IRB disagrees with a sponsor's NSR determination, the sponsor will be required to secure an IDE or documentation of the FDA's NSR determination.
- G. Research involving the use of a NSR device must be conducted in accordance with the "abbreviated" requirements of the FDA as described in the FDA regulations 21 CFR Sec. 812.2(b). In some cases, the FDA may notify the sponsor that it does not agree with the NSR determination and will require the submission of an IDE. All copies of related correspondence must be submitted to the IRB for review.

II. Exemptions from IDE requirements

- A. A device can be exempt from the IDE requirements. If an exempt study is being conducted to collect data to support either a clinical investigation or a marketing application then the study must comply with 21 CFR 50 and should comply with 21 CFR 56. There are seven exemption categories in 21 CFR 812.2(c) that may be claimed (*see B below*):
 - 1. The first two categories pertain to devices that were either manufactured before 1976 or similar products manufactured after 1976 (referred to as a 510K device).
 - 2. Categories 3 and 4 are the most commonly applied for exemptions.
 - 3. Categories 5 and 6 are pertinent to the use of devices in animals.
 - 4. Category 7 pertains to custom devices and is rarely utilized.

5. The exemption category most commonly claimed is 21 CFR Sec. 812.2(c)(3).
 6. To qualify for exemption 21 CFR Sec. 812(c)(4), the device testing must not be for the purposes of determining safety and effectiveness and must not put subjects at risk. The device testing must be limited to the following:
 - a) Consumer preference testing;
 - b) Testing of a modification; or
 - c) Testing of a combination of two or more devices in commercial distribution.
 7. It is the sponsor's responsibility to provide sufficient justification to support the exemption category being claimed.
 8. An exemption from the IDE requirement is not an exemption from the requirement for prospective IRB review or informed consent.
- B. *Exempted Device Investigation.*
 The following categories of devices do not require an IDE:
1. A device, other than a transitional device, in commercial distribution immediately before May 28, 1976, when used or investigated in accordance with the indications in labeling in effect at that time.
 2. A device, other than a transitional device, introduced into commercial distribution on or after May 28, 1976, that FDA has determined to be substantially equivalent to a device in commercial distribution immediately before May 28, 1976, and that is used or investigated in accordance with the indications in the labeling FDA reviewed under subpart E of part 807 in determining substantial equivalence (a 510K device)
 3. A diagnostic device, if the sponsor complies with applicable requirements in § 809.10(c) and if the testing:
 - a) Is noninvasive,
 - b) Does not require an invasive sampling procedure that presents significant risk,
 - c) Does not by design or intention introduce energy into a subject, and
 - d) Is not used as a diagnostic procedure without confirmation of the diagnosis by another, medically established diagnostic product or procedure.
 4. A device undergoing consumer preference testing, testing of a modification, or testing of a combination of two or more devices in commercial distribution, if the testing is not for the purpose of determining safety or effectiveness and does not put subjects at risk.
 5. A device intended solely for veterinary use.
 6. A device shipped solely for research on or with laboratory animals and labeled in accordance with § 812.5(c).
 7. A custom device as defined in § 812.3(b), unless the device is being used to determine safety or effectiveness for commercial distribution.

III. **UCI IRB Approval of the Use of an Investigational Device**

- A. Where a protocol is subject to review under more than one department or agency's regulations, the requirements of each set of regulations must be met. This situation may arise, for example, with IDEs where both the FDA and DHHS have jurisdiction over the research. The use of an unapproved SR device requires an FDA investigational device exemption (IDE).
- B. The IRB must determine whether it is in agreement with the rendering of the decision by the sponsor of the device being a non-significant risk or a significant risk device. If the IRB is in agreement with the sponsor's determination of NSR, no report to the FDA is required until the data are submitted. However, the sponsor must be notified if the IRB disagrees with the sponsor's NSR determination.
- C. The IRB must determine whether the device is exempt, based upon, in part, information provide in Appendix K.

- D. The IRB may approve or disapprove the proposed research based on local context and its responsibilities to protect human subjects in research even when approval of the device has been granted by the FDA.
- E. The LR is responsible for the tracking and oversight of FDA-regulated devices in research and must meet the following requirements in order to use an investigational device in research conducted under the jurisdiction of the UCI IRB:
 1. The investigational device must be used only by the LR or qualified study team member;
 2. The investigational device must be used only as approved by the FDA and as described in the currently approved IRB documents;
 3. The researchers must not supply the investigational device to any persons not authorized under the IDE;
 4. Informed consent from the participant or the participant's LAR must be prospectively obtained, unless waived by the IRB; and
 5. Research with the use of an investigational device must be conducted under all UCI IRB applicable policies and procedures.
- F. Researchers using an investigational device are required to provide a plan in Appendix K of the IRB Application about how the device will be managed and controlled. Researchers are required to:
 1. Describe how the Researcher will ensure that the investigational device is used only in accordance with the UCI IRB approved protocol.
 2. Explain who will access to the device and how access will be controlled to secure the drug/biologic. The investigational device must be used only by the LR or qualified study team member.
 3. Explain how records for control of the device will be recorded. For example, use of the sample Device Accountability Log provided on the HRP website; use of the Device Log provided by the Sponsor; or no log will be used and the researcher must provide justification.

IV. **In Vitro Diagnostic Device Studies**

- A. Under FDA regulations, clinical investigations using human tissue specimens conducted in support of premarket submissions to FDA are considered human subject investigations [see 21 CFR 812.3(p)]. Many IVD studies are exempt from IDE requirements, under 21 CFR 812.2(c)(3), however FDA regulations for the protection of human subjects (21 CFR Parts 50 and 56) still apply to all clinical investigations that are regulated by FDA [see 21 CFR 50.1; 21 CFR 56.1] even if the clinical investigation involves unidentified, leftover tissue specimens.
- B. The FDA intends to exercise enforcement discretion as to the requirements for informed consent requirements for clinical investigators and IRBs if an *in vitro* diagnostic device investigation is performed and all of the following are true:
 1. The investigation meets the IDE exemption criteria at 21 CFR 812.2(c) (3).
 2. The study uses leftover specimens, that is, remnants of specimens collected for routine clinical care or analysis that would have been discarded. The study may also use specimens obtained from specimen repositories or leftover specimens that were previously collected for other research purposes.
 3. The specimens are not individually identifiable, i.e., the identity of the subject is not known to and may not readily be ascertained by the investigator or any other individuals associated with the investigation, including the sponsor. If the specimen is coded, it will be considered to be not individually identifiable if neither the investigator(s) nor any other individuals associated with the investigation or the

sponsor can link the specimen to the subject from whom the specimen was collected, either directly or indirectly through coding systems.

4. The specimens may be accompanied by clinical information as long as this information does not make the specimen source identifiable to the investigator or any other individual associated with the investigation, including the sponsor.
 5. The individuals caring for the patients are different from and do not share information about the patient with those conducting the investigation.
 6. The specimens are provided to the investigator(s) without identifiers and the supplier of the specimens has established policies and procedures to prevent the release of personal information.
- C. Studies that do not fall within the intended enforcement discretion include (but are not limited to) studies where any of the following is true:
1. The study does not meet the IDE exemption criteria at 21 CFR 812.2(c)(3);
 2. The specimens are individually identifiable, i.e., the identity of the subject is known to or may be readily ascertained by the investigator or any other individuals associated with the investigation, including the sponsor.
 3. The specimens were collected specifically for the proposed investigation. That is, the specimens are not leftover from routine clinical care or analysis or leftover from other research.
 4. The amount of specimen needed for the study is more than would be leftover from what is usually collected for routine clinical analysis or,
 5. The test results will be reported to the subject's health care provider.

V. Review Process for SR/NSR Studies

- A. The IRB Committee is responsible for reviewing and determining whether it is in agreement with the sponsor's determination of SR or NSR.
- B. The convened IRB Committee must review the sponsor's SR or NSR determination for every investigational medical device reviewed. There is one exception where expedited review may be appropriate as follows:
 1. If the FDA has already made a NSR determination and the IRB agrees that the use of the device in the investigation poses no greater than minimal risk, expedited review of the study may be appropriate under the applicable expedited category(ies).
 2. The FDA NSR determination letter must be provided as part of the expedited review of the study.
- C. Approval of a SR or NSR device will be documented in the meeting minutes for which the study was reviewed and approved*.
 - a) *Approval of the NSR device through an expedited review will be reported to the convened IRB and the NSR risk determination for the expedited study will be documented in the meeting minutes.
- D. Documentation of SR and NSR will be done at the initial review and for each continuing review and/or each modification as applicable where a change in risk or other change has occurred that may affect the device risk determination.
- E. The risk determination made by the IRB Committee is based on the proposed use of the device in an investigation, and not on the device alone.
- F. In deciding if a study poses a SR, the IRB considers the nature of the harm that may result from the use of the device.
 1. Studies where the potential harm to subjects could be life-threatening, could result in permanent impairment of a body function or permanent damage to body structure, or could necessitate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to body structure are considered SR.

2. If the subject must undergo a procedure as part of the investigational study (e.g., a surgical procedure), the IRB considers the potential harm that could be caused by the procedure in addition to the potential harm caused by the device.
- G. The IRB may consult with the FDA for its opinion.
- H. Once the SR or NSR decision has been reached, the IRB considers whether the study should be approved or not. The criteria for deciding if SR and NSR studies should be approved are the same as any other FDA regulated study.
- I. To assure that the risks to the subject are reasonable in relation to the anticipated benefits, the risks and benefits of the investigation are compared to the risks and benefits of alternative devices or procedures.
1. This differs from the judgment about whether a study poses a SR or NSR, which is based solely upon the seriousness of the harm that may result from the use of the device.
- J. When the sponsor determines the investigational device to be NSR and the IRB disagrees (assuming that documentation of NSR status from the FDA is not available), the proposed research is tabled by the convened IRB Committee.
1. The IRB notifies the LR and requests that he/she contacts the sponsor and notify them of the Committee's determination.
 2. The sponsor may proceed with submitting a request for an IDE approval from the FDA and, when received, the IRB re-reviews the proposed research. UCI IRB approval cannot be granted until FDA documentation concerning the IDE is provided to IRB.
 3. The sponsor or the researcher may withdraw the study and not submit the investigational device to the FDA for consideration of an IDE.
- K. In the event that the FDA rules that the investigational device is a SR device after the sponsor and the IRB have determined the investigational device to be a NSR device, the IRB will suspend the currently approved study detailing the criteria for suspension.
1. The study may not reopen until an IDE is granted by the FDA and the study is reviewed by the full Committee with appropriate changes to the IRB application, protocol and/or informed consent documents.
 2. The Committee must direct the LR on the issue of re-consenting participants, if appropriate.
- L. Criteria for Approval of SR and NSR Studies
1. In making its determination on approval, the IRB considers the following:
 - a) Whether the protocol is scientifically sound;
 - b) The risks and benefits of the medical device compared to the risks and benefits of alternative devices or procedures;
 - c) The risks and benefits of the proposed research, in addition to those associated with the use of the device;
 - d) Consideration of prior reviews by the FDA, other institutions, scientific review committees, funding agencies (e.g., NIH), or others; and
 - e) Study design, which includes the study population, the trial phase, and mechanisms for data analysis and surveillance.
- M. Continuing Review of an Investigational Device.
1. NSR investigational devices and minimal risk studies may receive expedited review at continuing review.
 2. SR investigational devices, regardless of the risk associated with the study, must be reviewed by the full Committee at continuing review.

- VI. **Use of an Investigational Device by an Investigator Assuming the Sponsor Function**
- A. In rare instances, a UCI Investigator will assume the Sponsor function for use of an investigational device. A *Sponsor-Investigator* is an individual who both initiates and conducts an investigation, and under whose immediate direction the investigational drug is administered or dispensed. The term does not include any person other than an individual. The requirements applicable to a sponsor-investigator under this part include both those applicable to an investigator and a sponsor.
 - B. In addition to the requirements above, if the device is a SR device, the UCI Investigator must submit a copy of the FDA Investigation Device Exemption Application (IDE Application) along with their IRB protocol application for review. UCI IRB approval will not be granted until documentation of a valid IDE from the FDA is submitted to IRB.
 - C. The UCI Investigator must comply with all Sponsor function requirements described in 21 CFR 812.
- VII. **Individual Patient Expanded Access of a Device that Involves an IDE**
- A. For an expanded access (also known as compassionate use) request of an investigational device (with an IDE), IRB Chairperson approval is allowable through an expedited review process.
- VIII. **Advertising or Recruitment for Studies That Involve an IDE (Also See IRB Policy V.B.)**
- A. Advertisements or recruiting tools must not include the term "new treatment", without explaining that the IDE is "investigational", meaning non-FDA approved. A phrase such as "receive new treatment" implies that all study subjects will be receiving newly marketed products of proven worth. It is not a treatment since its effectiveness has not been proven or established. The term "new" is misleading as it gives the participant hope of a new intervention when the outcome is unknown. This could be viewed as coercive.
 - B. Advertisements or recruiting tools must not include the promise of "free medical treatment" when the intent is only to say that participants will not be charged for taking part in the investigation or experimental intervention (e.g. device). The use of the word "free" could be viewed as coercive as it may entice someone to participate in a study for the perceived benefits.
- IX. **Informed Consent in Research that Involves an IDE**
- A. Informed consent must meet the requirements outlined in the IRB Informed Consent policies and procedures (See HRP Policies # 36-40);
 - B. No claims may be made which state or imply, directly or indirectly, that the IDE is safe or effective for the purposes under investigation or that the device is in any way superior to any other device;
 - C. The informed consent document must contain a statement that the IDE is "investigational";
 - D. The informed consent document must contain a statement that the FDA may have access to the participant's medical records as they pertain to the study; and
 - E. The researcher must ensure that throughout the consenting process and study participation the participant understands that the IDE is experimental, and that its benefits for the condition under study are unproven.
- X. **Additional Reporting Requirements**
- A. Devices may have an unanticipated adverse device effect (UADE) to participants or others. The investigational device exemption (IDE) regulations define an UADE as "any serious adverse effect on health or safety or any life-threatening problem or death caused by, or associated with, a device, if that effect, problem, or death was not previously

identified in nature, severity, or degree of incidence in the investigational plan or application (including a supplementary plan or application), or any other unanticipated serious problem associated with a device that relates to the rights, safety, or welfare of subjects.”

UADEs must be reported by the clinical investigator to the sponsor and the IRB (via the “Unanticipated Problems” (UP) Report), as described below:

1. For device studies, investigators are required to submit a report of a UADE to the sponsor and the reviewing IRB as soon as possible, but in no event later than 5 business days after the investigator first learns of the event (§ 812.150(a)(1)).
 2. Sponsors must immediately conduct an evaluation of a UADE and must report the results of the evaluation to FDA, all reviewing IRBs, and participating investigators within 10 working days after the sponsor first receives notice of the effect (§§ 812.46(b), 812.150(b)(1)).
 - a. A sponsor who determines that an unanticipated adverse device effect presents an unreasonable risk to subjects must terminate or suspend all investigations or parts of investigations presenting that risk as soon as possible. Termination or suspension must occur no later than 5 working days after the sponsor makes this determination and no later than 15 working days after the sponsor first received notice of the effect.
 - b. If the device is a significant risk device, a sponsor may not resume a terminated or suspended investigation without IRB and FDA approval. If the device is not a significant risk device, a sponsor may not resume a terminated or suspended investigation without IRB approval and, if the investigation was terminated or suspended for an unanticipated adverse device effect that presented an unreasonable risk to participants or others, FDA approval.
- B. Should the IRB determine that the new information gained in the adverse effect report changes its risk assessment, the IRB will reconsider its prior NSR decision and ask for FDA review.
- C. Within 3 months after termination or completion of the investigation or the Researcher's part of the investigation, the Researcher must submit a final closing report to the UCI IRB.

References:

21 CFR 50 and 56

21 CFR 812

21 CFR 814

21 CFR 860

45 CFR 46

FDA Information Sheet Guidance, “Frequently Asked Questions About Medical Devices”- January 2006

FDA Information Sheet Guidance, “Significant Risk and Nonsignificant Risk Medical Device Studies”

Procedure Number: 42.A

Title: Procedure for Review of Research Involving Investigational Devices

Procedure:

The purpose of this procedure is to provide guidance on the use of investigational devices in human subjects research.

I. Lead Researcher (LR) Responsibilities

- A. The LR will provide all information regarding the use of investigational devices as required in the IRB Application (Appendix K). This will include the identification of the IDE number, if applicable.
- B. When an IDE is required, the LR will also complete the FDA's Investigator's Agreement form for submission to the FDA. A copy of this form must be submitted with the initial IRB application.
- C. The initial submission will also include all correspondence from the sponsor and/or FDA in regard to the determination of the device as being a NSR or SR. If the sponsor considers that a study is NSR, the LR should provide the IRB an explanation of the determination and any other information that may assist the IRB in evaluating the risk of the study.
- D. The LR should provide the IRB with a description of the device, reports of prior investigations with the device, the proposed investigational plan, a description of participant inclusion/exclusion criteria and monitoring plan, as well as any other information that the IRB deems necessary to make its decision. The LR should inform the IRB whether other IRBs have reviewed the proposed study and what determination was made. The LR must also inform the IRB of the FDA's assessment of the device's risk if such an assessment has been made.
- E. The LR is responsible for the submission to the IRB of the sponsor's report of prior investigations for the IDE.
- F. It is the LR's responsibility to notify the Sponsor of the SR decision made by the IRB Committee.
- G. Additionally, the LR will provide a description of the component, ingredient, property, principle of operation and each anticipated change in the device during the course of the research.
- H. The LR will complete the informed consent process, unless a waiver has been granted by the IRB.
- I. The LR will maintain all case report forms and records as required by the sponsor, Institution, and/or FDA.
- J. The LR is responsible for the accountability, storage, dispensing, tracking, and oversight of the FDA-regulated devices in accordance with applicable institutional, State, and Federal laws and regulations.
- K. The LR will complete and submit continuing review applications at the established review intervals imposed by the IRB.
- L. The LR will notify the IRB of any amendments, unanticipated device effects, serious adverse events or unanticipated problems to participants or others that may occur while conducting the research or follow-up.
- M. The LR will assure that adverse device effects or unanticipated problems to participants or others are reported to the IRB via the UCI "Unanticipated Problems" (UP) reporting process in accordance with current policy and HRP Policy # 19.
- N. The LR will assure the device is only used under their direct supervision and will discard or ship all unused devices back to the sponsor as specified by the sponsor.

- O. The LR will notify the IRB of study closure or completion of the study and return all unused products per the sponsor's instructions.
- P. The LR will submit the final closing report to the IRB within three months of termination or completion of study.

II. IRB Committee Responsibilities

- A. If the research being conducted is to determine the safety or effectiveness of a device, but does not have an IDE issued by the FDA, the IRB will confirm whether the device meets the requirements for an abbreviated investigational device exemption (IDE) (21 CFR §812.2(b)(1)) or the protocol meets one of the five exemptions from the requirement for an IDE (21 CFR §812.2(c)).
- B. When research involves a device with an IDE, the IRB Committee, together with the IRB Administrator, should evaluate whether the IDE number is valid. The purpose of this verification is to prevent situations where researchers may begin FDA-regulated research that require an IDE before the FDA has issued an IDE number.
- C. Device studies that are exempt from the IDE requirement may qualify for expedited review Category 1 (e.g., IVD device studies involving unidentified, leftover tissue specimens). Waiver of consent may also be applicable (See 42 above). Based on the initial expedited review, the IRB reviewer may request the IDE study be sent to an additional reviewer or to full Committee.
- D. The IRB Committee is responsible for reviewing and determining whether it is in agreement with the sponsor's determination of SR or NSR.
- E. See I.C. above for information to be submitted by the LR that may assist the IRB in evaluating the risk of the study. The IRB may also consult with the FDA for its opinion. The risk determination should be based on the proposed use of the device in an investigation, and not on the device alone. In deciding if a study poses a SR, an IRB must consider the nature of the harm that may result from the use of the device. Studies where the potential harm to subjects could be life-threatening, could result in permanent impairment of a body function or permanent damage to body structure, or could necessitate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to body structure should be considered SR. Also, if the subject must undergo a procedure as part of the investigational study, e.g., a surgical procedure, the IRB must consider the potential harm that could be caused by the procedure in addition to the potential harm caused by the device. Two examples follow:
 - 1. The study of a pacemaker that is a modification of a commercially-available pacemaker poses a SR because the use of any pacemaker presents a potential for serious harm to the subjects. This is true even though the modified pacemaker may pose less risk, or only slightly greater risk, in comparison to the commercially-available model. The amount of potential reduced or increased risk associated with the investigational pacemaker should only be considered (in relation to possible decreased or increased benefits) when assessing whether the study can be approved.
 - 2. The study of an extended wear contact lens is considered SR because wearing the lens continuously overnight while sleeping presents a potential for injuries not normally seen with daily wear lenses, which are considered NSR.
- F. Once the SR/NSR decision has been reached, the IRB should consider whether the study should be approved or not. The criteria for deciding if SR and NSR studies should be approved are the same as any other FDA regulated study. To assure that the risks to the subject are reasonable in relation to the anticipated benefits, the risks and benefits of the investigation should be compared to the risks and benefits of alternative devices or procedures. This differs from the judgment about whether a study poses a SR or NSR

- which is based solely upon the seriousness of the harm that may result from the use of the device.
- G. When the sponsor determines the investigational device to be of a non-significant risk and the UCI IRB disagrees, the proposed research is to be deferred by the convened IRB Committee. The IRB will draft a letter of deferral and request that the LR contact the sponsor and notify them of the Committee's determination.
 - 1. The sponsor may proceed with submitting a request for an IDE approval from the FDA and when received the IRB will re-review the proposed research.
 - 2. The sponsor or the LR may withdraw the study and not submit the investigational device to the FDA for consideration of an IDE.
 - H. In the event that the FDA rules that the investigational device is a significant risk device after the sponsor and the UCI IRB have determined the investigational device to be a non-significant risk device, the IRB will suspend the currently approved study detailing criteria for suspension.
 - 1. The study may not reopen until an IDE is granted by the FDA and the study is reviewed by the full Committee with appropriate changes to the IRB application, protocol and/or informed consent documents.
 - 2. The Committee must direct the LR on the issue of re-consenting participants, if appropriate.
 - I. The Committee will review the proposed research, informed consent documents, and additional information, when appropriate, and determine whether the study meets criteria 45 CFR 46.111 and 21 CFR 56.111 for approval.
 - 1. In order to provide written documentation, the primary and secondary reviewers must complete the "IRB Reviewer's Checklist" form specifying how the criteria are met.
 - 2. In making its determination on approval, the IRB must consider whether the protocol is scientifically sound. The IRB should consider the risks and benefits of the medical device compared to the risks and benefits of alternative devices or procedures. The research is to be reviewed with all risks and benefits taken into consideration, not just that of the device. This should include:
 - a) Consideration of prior reviews by the FDA, other institutions, scientific review committees, funding agencies (e.g., NIH), or others; and
 - b) Study design, which includes the study population, the trial phase, and mechanisms for data analysis and surveillance.
 - J. Research vs. Therapy. Throughout clinical trials, the distinction between therapy and research must be maintained. For example, a physician who participates in research by utilizing a new device to consenting patients must assure that the patients understand and remember that the device is experimental, and that its benefits for the condition under study are unproven. Furthermore, whereas the LR's primary allegiance is to the protocol, the physician's allegiance is to the patient. Where an individual is both an Investigator and the participant's treating physician, these two allegiances may conflict. The participant must recognize that the person with whom he or she is dealing may have such conflicting interests. The IRB should consider the need to inform the patient of the potential conflict.
 - K. The Committee will consider whether the investigator has developed an adequate plan (Appendix K) to ensure that the investigational device is used only in approved research protocols and under the direction of qualified investigators and that the plan ensures proper handling of investigational test articles in accordance with applicable policies and procedures, State, and Federal regulations.
 - L. Continuing review of an investigational device.
 - 1. Non-significant risk investigational devices and minimal risk studies may receive expedited review at continuing review.

2. Significant risk investigational devices, regardless of the risk associated with the study, must be reviewed by the full IRB Committee at continuing review.
- M. Submission of modifications or unanticipated problems to participants or others, and continuing reviews will be reviewed at the level for which they qualify.

III. IRB Administrator Responsibilities

- A. The Administrator will pre-review and request any necessary revisions for submitted documents for use of investigational devices as outlined for new application.
- B. When research involves a device with an IDE, the IRB Committee, together with the IRB Administrator, should evaluate whether the IDE number is valid.
Validation of an IDE can be done by:
- a) Determining that the IDE number listed in Appendix K matches the Sponsor Protocol or
 - b) Upon receipt of communication from the Sponsor, which corresponds with the IDE number provided in Appendix K or
 - c) Upon receipt of communication from the FDA, which corresponds with the IDE number provided in Appendix K
- Validation of an IDE *should not* involve:
- d) Confirmation of the IDE number by referencing the Investigator's Brochure (IB). This is because one IB often serves multiple IDE's.
- C. Once the LR has met all the pre-review requirements, the Administrator will place the new study on the next available Committee agenda (unless the study may be considered for expedited review – see V.B.1. above).
- D. The Administrator will assist reviewers in obtaining additional information that may be requested regarding the investigational device use from the LR.
- E. Minutes of IRB meetings must document the rationale for SR and subsequent approval or disapproval decisions for the clinical investigation. For NSR studies– see V.C.a. above).
- F. Letters requesting revisions from reviewers, and final approval letters are to be drafted using the appropriate template and provided to the Chairperson or his/her designee for their signature or their authorization for use of electronic signature.
- G. The HRP staff will process all requests for amendments, or unanticipated problems to participants or others, and continuing reviews per corresponding policies and procedures.
- H. Appropriate HPS database entries are to be completed.