

VCU/VCUHS NSR IDE Sponsor-Investigator Responsibilities

A sponsor-investigator assumes BOTH investigator and sponsor responsibilities as outlined in the FDA Code of Federal Regulations 21 CFR 812. This means that such investigators have additional responsibilities.

All VCU/VCUHS faculty/employees who hold an IDE must abide by all relevant federal, state and VCU/VCUHS policies. The Sponsor and Investigator or Sponsor-Investigator (if the same individual), must understand and agree to abide by all responsibilities. This document outlines Federal Regulations regarding responsibilities of Sponsors and Investigators for an IDE.

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Sponsor Responsibilities for Non-Significant Risk Device Studies

Sponsors of nonsignificant risk studies must comply with the abbreviated IDE requirements set forth in 21 CFR 812.2(b). The sponsor must provide:

A. Labeling

Label the device in accordance with §812.5. Under §812.5 an investigational device or its immediate package must bear a label with the following information:

- The name and place of business of the manufacturer, packer, or distributor;
- The quantity of contents, if appropriate; and
- The statement, "CAUTION Investigational device. Limited by Federal (or United States) law to investigational use."

The label must also describe all relevant contraindications, hazards, adverse effects, interfering substances or devices, warnings, and precautions.

The labeling of an investigational device must not contain any false or misleading statements nor imply that the device is safe or effective for the purposes being investigated.

The sponsor should provide detailed information on device labeling in the investigational protocol. This information may vary depending on the device and the nature of the study. Product labeling should be sufficient to ensure stability of the test article for the duration of the study (storage requirements, calibration procedures), bear sufficient directions for proper administration, and detail procedures to follow in the event of patient injury.

B. IRB Approval

Obtain IRB approval of the investigation as a nonsignificant risk device study after presenting the reviewing IRB with a brief explanation of why the device is not a significant risk device and maintain such approval.

Ensure that each investigator participating in an investigation of the device obtains informed consent under 21 CFR 50 for each subject under the investigator's care and documents the consent, unless documentation is waived by an IRB under 21CFR56.109(c).

C. Monitoring 21 CFR 812.46

Comply with the requirements of 21 CFR 812.46 with respect to monitoring investigations.

- **Securing Compliance:** A sponsor who discovers that an investigator is not complying with the signed agreement, the investigational plan, the IDE requirements, any other applicable FDA regulations, or any conditions of approval imposed by the reviewing IRB or FDA must promptly either secure compliance, or discontinue shipments of the device to the investigator and terminate the investigator's participation in the investigation. A sponsor must also require that

the investigator dispose of or return the device, unless this action would jeopardize the rights, safety, or welfare of a subject.

- **Unanticipated Adverse Device Effects:** The sponsor must immediately conduct an evaluation of any unanticipated adverse device effect. A sponsor who determines that an unanticipated adverse device effect presents an unreasonable risk to subjects must terminate all investigations or parts of the investigations presenting that risk as soon as possible. Termination 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.
- **Resumption of Terminated Studies:** For significant risk device investigations, a sponsor may not resume a terminated investigation without IRB and FDA approval. For a nonsignificant risk device investigation, a sponsor may not resume a terminated investigation without IRB approval. If the nonsignificant risk study was terminated for unanticipated adverse device effects, the sponsor must also obtain FDA approval.

D. Record Keeping

Maintain certain records and submit required reports. The following records must be maintained in one location and available for FDA inspection [§812.140(b)(4)]:

- The name and intended use of the device;
- The objectives of the investigation;
- A brief explanation of why the device is not a significant risk device;
- The name and address of each investigator;
- The name and address of each IRB;
- A statement of the extent to which the good manufacturing practices (21 CFR 820) will be followed in manufacturing the device.
- Any other information required by FDA

The sponsor must maintain records concerning complaints and adverse device effects whether anticipated or not [21 CFR 812.140(b)(5)].

E. Reporting

The sponsor must provide the following reports in a timely manner to FDA, the IRBs, and/or the investigators in accordance with 21 CFR 812.150(b) (1) through (3) and (5) through (10).

- **Unanticipated Adverse Device Effects-** 21 CFR 812.150(a)(1)
 - A NSR IDE sponsor must submit to the FDA, all reviewing IRBs and all participating investigators a report with the results from any evaluations conducted for an unanticipated adverse device effect, within 10 working days after the sponsor is first notified of the effect. Thereafter, the sponsor must submit follow-up reports as the FDA requests.
- **Withdrawal of IRB Approval-** 21 CFR 812.150(a)(2)
 - A NSR IDE sponsor must notify the FDA and all reviewing IRBs and participating investigators of any withdrawal of approval of an investigation or a part of an

investigation by a reviewing IRB, within 5 working days after receipt of the withdrawal of approval.

- **Withdrawal of FDA approval-** 21 CFR 812.150(a)(3)
 - A NSR IDE sponsor must notify all reviewing IRBs and participating investigators of any withdrawal of FDA approval of the investigation, and must do so within 5 working days after receipt of notice of the withdrawal of approval.
- **Progress Report-** 21 CFR 812.150(a)(5)
 - At least yearly, the sponsor must submit a progress report to all reviewing IRBs.
- **Recall and Device Disposition--** 21 CFR 812.150(a)(6)
 - A sponsor must notify the FDA and reviewing IRBs of any requests for an investigator to return, repair or otherwise dispose of any units of a device, within 30 working days after the request is made and must state why the request was made.
- **Final Report-** 21 CFR 812.150(a)(7)
 - The NSR IDE sponsor must submit a final report to all reviewing IRBs within 6 months after termination or completion.
- **Failure to obtain informed consent-** 21 CFR 812.150(a)(8)
 - The NSR IDE sponsor must submit any reports submitted by investigators regarding the use of an investigational device without obtaining consent to the FDA within 5 working days of notification of such use.
- **Significant Risk Device Determination-** 21 CFR 812.150(a)(9)
 - If an IRB determines that a device is a significant risk device, and the sponsor had proposed that the IRB consider the device not to be a significant risk device, the sponsor shall submit to FDA a report of the IRB's determination within 5 working days after the sponsor first learns of the IRB's determination.
- **Other reports requested** by a reviewing IRB or FDA- 21 CFR 812.150(a)(10)
 - Upon request by a reviewing IRB or FDA, the sponsor must submit accurate, complete and current information about any aspect of the investigation.

Ensure that participating investigators maintain the records of each subject's case history and exposure to the device under 21 CFR 812.140(a)(3)(i) and ensure that participating investigators make the following required reports to the sponsor:

- Unanticipated Adverse Device Effects- 21 CFR 812.150(a)(1)
- Withdrawal of IRB Approval- 21 CFR 812.150(a)(2)
- Failure to obtain informed consent- 21 CFR 812.150(a)(5)
- Other reports requested by a reviewing IRB or FDA- 21CFR812.150(a)(7)

F. Promotion of Investigational Devices

Comply with the prohibitions in 21CFR812.7 against promotion and other practices. Under 21 CFR 812.7, a sponsor, investigator, or any person acting for or on behalf of a sponsor or investigator cannot:

- Promote or test market an investigational device, until after FDA has approved the device for

commercial distribution.

- Commercialize an investigational device by charging the subjects or investigators a higher price than that necessary to recover costs of manufacture, research, development, and handling.
- Unduly prolong an investigation. If data developed by the investigation indicate that premarket approval (PMA) cannot be justified, the sponsor must promptly terminate the investigation.
- Represent that an investigational device is safe or effective.

However, the sponsor may advertise for research subjects to solicit their participation in a study. Appropriate advertising methods include but are not necessarily limited to: newspaper, radio, TV, bulletin boards, posters, and flyers that are intended for prospective subjects.

Advertisements must be reviewed and approved by the IRB to assure that they are not unduly coercive and does not promise a certainty of cure beyond what is outlined in the consent and the protocol. No claims should be made, either explicitly or implicitly, that the device is safe or effective for the purposes under investigation, or that the test article is known to be equivalent or superior to any other device.

FDA considers direct advertising for study subjects to be the start of the informed consent and subject selection process.

Investigator Responsibilities for Non-Significant Risk Device Studies

The investigator is responsible for protecting the rights, safety, and welfare of subjects. An investigator must conduct the investigation in accordance with the signed agreement with the sponsor, the investigational plan, the IDE regulations and other applicable FDA regulations, and any conditions of approval imposed by an IRB and FDA. 21 CFR 812.100.

A. Informed Consent

An investigator is responsible for obtaining informed consent under 21 CFR Part 50.

B. Records

Clinical investigators must maintain the records of each subject's case history and exposure to the device under 21 CFR 812.140(a)(3)(i). Case histories include case report forms and supporting data, including signed and dated consent forms and medical records, including progress notes of the physician, the individual's hospital chart(s), and the nurses' notes. Records must include documents demonstrating informed consent and, for any use of a device the investigator without informed consent, any written concurrence of a licensed physician and a brief description of the circumstances justifying the failure to obtain informed consent. The case history of each individual must document that informed consent was obtained prior to participation in the study.

C. Reports

Clinical investigators must make the following required reports:

- **Unanticipated Adverse Device Effects-** 21 CFR 812.150(a)(1)
- **Withdrawal of IRB Approval-** 21 CFR 812.150(a)(2)
- **Failure to obtain informed consent-** 21 CFR 812.150(a)(8)
- **Other reports requested by a reviewing IRB or FDA-** 21 CFR 812.150(a)(10)

See Reports for additional information regarding specific reports.

D. Financial Disclosure

If the data in a nonsignificant risk device study is submitted in a marketing application, then 21 CFR 54, Financial Disclosure, applies. The clinical investigator must disclose to the sponsor sufficient accurate financial information to allow the IDE applicant (or sponsor) to submit certification or disclosure of financial interests. The investigator must update the information if any relevant changes occur during the course of the investigation and for one year following completion of the study. 21 CFR 812.110

Key References

Code of Federal Regulations Title 21 Part 812

<http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=812>

This document is built from 21 CFR 812 with information from:

<http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=812>

<http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/InvestigationalDeviceExemptionIDE/ucm046702.htm>

<http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/InvestigationalDeviceExemptionIDE/ucm046722.htm>

<http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/InvestigationalDeviceExemptionIDE/ucm046706.htm>

ICH E6 Good Clinical Practice Guidelines for Industry

<http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM073122.pdf>

VCU working manual for VCU/VCUHS investigator initiated IND/IDEs

go.vcu.edu/handbook/indide

VCU Policy on Record Retention (See GS111 for Clinical Research)

<http://www.ts.vcu.edu/askit/policies-and-publications/records-management/records-retention--disposition-schedules/>

VCUHS Policy Conduct of Clinical Research in Patient Care Areas

http://vcuhspolicy.mcvh-vcu.edu/Policies/zav_PC.CP.004.htm

For specific questions at VCU/VCUHS contact the Clinical Research Compliance Officer:

Betsy Ripley, MD, MS
elizabeth.ripley@vcuhealth.org
804-828-1955, or page 2022.