UNIVERSITY OF TENNESSEE GRADUATE SCHOOL OF MEDICINE INSTITUTIONAL REVIEW BOARD COMPASSIONATE/TREATMENT USE OF MEDICAL DRUGS, BIOLOGICS AND DEVICES

I. PURPOSE

To document the review procedures for a submission regarding compassionate/treatment use of investigational drugs, biologics and devices.

II. SCOPE

This SOP applies to the IRB administrative staff, IRB members, investigators and sponsors.

Personnel Responsible:

University of Tennessee Graduate School of Medicine Institutional Review Board (UTGSM IRB) administrative staff, members, and investigators.

III. BACKGROUND

Regulations of the FDA permit compassionate use/treatment use of unapproved drugs, biologics and devices outside the context of clinical trials for single patients or small groups of patients.

The **treatment use provisions of the drug and biologic regulations** allow access to an unapproved drug or biologic during its clinical investigation or prior to final action on the marketing application for patients who would meet the inclusion criteria for a clinical trial, but are not otherwise able to participate in a study. The patient(s) must have a serious or life-threatening disease or condition for which there is no satisfactory alternative treatment. The sponsor must be actively pursuing marketing approval. The treatment use may only occur after the FDA has approved a treatment IND application from the sponsor of the investigational drug or biologic. Treatment use of an unapproved drug or biologic requires approval of the full Board and the informed consent of patients, as well as clearance from the institution in which the use will occur.

The **treatment use provision of the medical device regulations** allow access to an unapproved medical device during its clinical investigation or prior to final action on the marketing application for patients who would meet the inclusion criteria for a clinical trial, but are not otherwise able to participate in a study. The patient(s) must have a serious or life-threatening disease or condition for which there is no satisfactory alternative treatment. In the case of serious disease, an unapproved medical device can be made available for treatment use after all clinical trials have been completed. In the case of an immediately life-threatening

disease, an unapproved medical device can be made available prior to the completion of all clinical trials. The sponsor must be actively pursuing marketing approval. The treatment use may only occur after the FDA has approved a treatment IDE application from the sponsor of the investigational device. Treatment use of an unapproved medical device requires approval of the full Board and the informed consent of patients, as well as clearance from the institution in which the use will occur.

The **compassionate use provisions of the medical device regulations** allow access to an unapproved medical device that is currently undergoing clinical investigation for patients who do NOT meet the inclusion criteria for the study. The device may be used in a single patient or in a small group of patients. The patient(s) must have a serious disease or condition for which there is no satisfactory alternative treatment. Prior FDA approval is needed before compassionate use occurs. The sponsor must submit an IDE supplement requesting approval for a protocol deviation in order to treat the patient(s). The physician should not treat the patient(s) until the FDA approves use of the device under the proposed circumstances. Compassionate use of an unapproved medical device requires the concurrence of the IRB chairperson and the informed consent of patients, as well as clearance from the institution in which the use will occur.

In accordance with:

21 CFR 312.34; 21 CFR 312.35; 21 CFR 812.36; and 21 CFR 812.35(a)

FDA Guidance on Treatment Use of Investigational Drugs located at http://www.fda.gov/ScienceResearch/SpecialTopics/RunningClinicalTrials/GuidancesInformationSheetsandNotices/ucm117839.htm

FDA Guidance on IDE Policies and Procedures located at http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm080202.htm

Compliance with this policy also requires compliance with state or local laws or regulations that provide additional protections for human subjects.

IV. PROCEDURES

1. Treatment Use of an Unapproved Drug or Biologic

a. The applicant must submit an application through iMedRIS, the electronic system.
b. The applicant should:

i. Identify the sponsor who holds the investigational new drug exemption (IND) for the drug or biologic and provide the IND number;
ii. Explain in what respects the patient(s) have a serious or life threatening condition necessitating treatment with the drug or biologic;
iii. Explain why alternative therapies are unsatisfactory and why it is probable that the risk-benefit ratio of using the unapproved drug or biologic is better than available alternatives; and
iv. Identify any significant ways in which the use of the drug or biologic to treat the patient will differ from the manner in which it is used in the approved protocol implemented under the primary IND.

c. The following documents must be attached to the application:
i. The protocol for the clinical research study in which the drug or biologic is currently being evaluated under the IND;
ii. The treatment IND application submitted to the FDA;
iii. The letter from the FDA approving the treatment IND;
iv. A statement of approval from the institutional site(s) where the drug or biologic will be administered; and
v. An informed consent document prepared according to the UTHSC IRB main consent form template.

d. The application will be reviewed by the full Board in accord with standard operating procedures (see SOP: UTGSM IRB Procedures for Full Board Review, and SOP: UTGSM IRB Criteria for IRB Approval of New Research Applications).

2. **Treatment Use of an Unapproved Medical Device**

a. The applicant must submit an application through iMedRIS, the electronic system.
b. The applicant should:
i. Identify the sponsor who holds the investigational device exemption (IDE) for the device and provide the IDE number;
ii. Explain in what respects the patient(s) have a serious or life-threatening condition necessitating treatment with the device;
iii. Explain why alternative therapies are unsatisfactory and why it is probable that the risk-benefit ratio of using the unapproved device is better than available alternatives; and
iv. Identify any significant ways in which the use of the device to treat the patient will differ from the manner in which it is used in the approved protocol conducted under the primary IDE.

c. The following documents must be attached to the application:
i. The protocol for the clinical research study in which the device is currently being evaluated under the IDE;
ii. The treatment IDE application submitted to the FDA;
iii. The letter from the FDA approving the treatment IDE;
iv. A statement of approval from the institutional site(s) where the device will be administered; and

v. An informed consent document prepared according to the UTHSC IRB main consent form template.

d. The application will be reviewed by the full Board in accord with standard operating procedures (see SOP: UTGSM IRB Procedures for Full Board Review, and SOP: UTGSM IRB Criteria for IRB Approval of New Research Applications).

3, Compassionate Use of an Unapproved Medical Device

a. The applicant must submit an application through iMedRIS, the electronic system.

b. The applicant should:

i. Identify the sponsor who holds the investigational device exemption (IDE) for the device and provide the IDE number;

ii. Explain in what respects the patient(s) have a serious or life-threatening condition necessitating treatment with the device;

iii. Explain why alternative therapies are unsatisfactory and why it is probable that the risk-benefit ratio of using the unapproved device is better than available alternatives;

iv. Identify any significant ways in which the use of the device to treat the patient(s) will differ from the manner in which it is used in the approved protocol; and

v. Identify the uninvolved physician who will provide an assessment in writing that the use of the device in this (these) patient(s) involves the treatment of a serious disease or condition, that there is no satisfactory alternative treatment, and that the risk-benefit ratio of administering the device is better than available alternatives.

c. The following documents must be attached to the application:

i. The letter from the sponsor authorizing use of the device in the present case(s);

ii. A statement of approval from the institutional site where the device will be administered;

iii. The protocol for the clinical research study in which the device is currently being evaluated;

iv. An assessment from an uninvolved physician that use of the device in this patient involves treatment of a serious disease or condition, that there is no satisfactory alternative treatment, and that the risk-benefit ratio of administering the device is better than available alternative;

v. The letter that applicant will submit to the FDA seeking approval for compassionate use of the device in the present case(s); and

vi. The letter from the FDA approving the compassionate use.

d. The compassionate use of an unapproved medical device may proceed with the concurrence of the IRB chairman.

4. Any revisions in the approved treatment use or compassionate use must be reviewed and approved as required by IRB policy (see IRB SOP: UTGSM IRB Procedures for Full Board Review).

5. Any unanticipated problems, including serious adverse events or other problems involving risks to patient or others, must be reported in the manner required by IRB policy (see IRB SOP: UTGSM IRB Reporting Unanticipated Problems, Including Adverse Events).

6. IRB approval for treatment use/compassionate use applies only to the patient(s) described in the application.