

**PARTNERS HUMAN RESEARCH COMMITTEE  
GUIDANCE DOCUMENT**

**EMERGENCY USE OF DRUGS OR BIOLOGICS**

Under usual circumstances, the use of an investigational drug or biologic requires prior approval of the IRB. Rarely there are emergency circumstances where it is in the best interests of a patient for an investigational drug or biologic to be used without IRB review and approval.

Emergency use is defined as the use of an investigational drug or biological product with a human subject in a life-threatening situation in which no standard acceptable treatment is available and in which there is not sufficient time to obtain IRB approval [21 CFR 56.102(d)].

The emergency use provision in the FDA regulations [21 CFR 56.104(c)] is an exemption from prior review and approval by the IRB. The exemption, which may not be used unless all of the conditions described in 21 CFR 56.102(d) exist, allows for one emergency use of a test article without prospective IRB review. FDA regulations require that any subsequent use of the investigational product at an institution have prospective IRB review and approval. FDA acknowledges, however, that it would be inappropriate to deny emergency treatment to a second individual if the only obstacle is that the IRB has not had sufficient time to convene a meeting to review the issue.

**Investigators should do the following:**

1. Determine if the proposed use meets the regulatory definition for emergency use of an investigational drug or biologic [21 CFR 56.102(d)]. Emergency uses must meet ALL of the following criteria:
  - The subject has a disease or condition which is life-threatening (e.g., the likelihood of death is high) or severely debilitating (e.g., may cause irreversible morbidity, such as blindness, loss of limb, loss of hearing, paralysis or stroke);
  - The subject's disease or condition requires intervention with the investigational drug or biologic before review at a convened meeting of the IRB is feasible; and
  - No standard acceptable treatment is available.
2. Contact manufacturer of drug/biologic to determine if it can be provided under an existing IND or, if not available through the manufacturer, contact the FDA for an Emergency IND.

**FDA Contacts for Obtaining an Emergency IND**

| <b>Product</b>            | <b>Office/Division to Contact</b>   |
|---------------------------|---|
| drug products             | Division of Drug Information<br>(888) 463-6332<br>(301) 796-3400  |
| biological blood products | Office of Blood Research and Review<br>(240) 402-8360   |
| biological vaccine        | Office of Vaccines Research and Review<br>Office of Communication, Outreach and Development<br>(240) 402-7800 |
| On nights and weekends    | Office of Crisis Management & Emergency Operations<br>Center<br>(866) 300-4374<br>(301) 796-8240              |

## Practical Tips:

- Review the FDA Guidance and Information Sheet:  
<http://www.fda.gov/RegulatoryInformation/Guidances/ucm126491.htm>
  - Sometimes the manufacturer will not entertain your request until you have IRB acknowledgement, i.e., the planned emergency use has been reviewed and acknowledged by an IRB chair.
  - "Piggybacking" onto sponsor's existing IND application is usually easier because they will often have a "package" of documents to send you. They must list you as a co-investigator (sub-investigator) on their IND.
3. Contact the Partners Human Research Office at **617-424-4100** to notify them of the planned emergency use of a drug or biologic.
    - If you have never used a drug in this fashion, you are strongly encouraged to speak personally with an IRB chairperson and research pharmacist in order to assist you with the process (see specific contacts below). You have important regulatory and reporting requirements with the FDA and IRB that must be followed.
    - There must be a staff physician (i.e., not a fellow or resident) responsible for the emergency use and who oversees and is responsible for the emergency use and completes all reporting requirements.
  4. Contact the **MGH Clinical Trials Pharmacy (617-726-2515)** or **BWH Investigational Drug Service (617-732-6410)** as soon as possible to inform them of the planned emergency use and drug shipment.
    - If you are expecting an emergency use **might** be necessary, please contact the research pharmacy and IRB staff **during regular business hours**, in order to get the regulatory process underway.
    - At both institutions there are specific research pharmacists with expertise in emergency uses who can assist you (see contacts below).
    - If a protocol from any institution or manufacturer is being followed, or other reference information regarding the drug or biologic is available, a copy must be sent to the IRB and the pharmacy. Any information regarding drug use, indication, administration, dispensing instructions (dose, route, frequency, etc), and preparation instructions must be sent to the pharmacy. The pharmacist will need to verify the drug and dose.
    - Investigational drugs should be delivered to the Research Pharmacies at the respective hospitals, with the responsible receiving physician's name and contact information clearly noted on the mailing label. Alert the Research Pharmacy about the expected arrival of the drug/biologic.
  5. Obtain informed consent of the subject or, if unable to give informed consent, the subject's legally authorized representative (next-of-kin).
    - If the holder of the IND (i.e., sponsor or other local or distant physician) has an existing consent form that is made available, that form may be used. The IRB would prefer to review these forms in advance of their use, if time permits, though this may not be possible in an emergency situation. Whenever possible, written consent should be sought.
    - If there is no existing consent form available from a sponsor or other IND holder, a clinical consent form should be used. Physicians should discuss with the subject, or legally authorized representative, the investigational nature of the proposed emergency treatment, the risks and benefits, and document these discussions in the medical record, in clinical notes, and in a clinical consent form.
    - **An exception to the requirement for informed consent may be made** if both the investigator and a physician who is not otherwise participating in the clinical investigation certify in writing all of the following:

- The subject is confronted by a life-threatening (or severely debilitating) situation necessitating the use of the investigational drug or biologic;
- Informed consent cannot be obtained because of an inability to communicate with, or obtain legally effective consent from the subject;
- Time is not sufficient to obtain consent from the subject's legal representative; and
- No alternative method of approved or generally recognized therapy is available that provides an equal or greater likelihood of saving the subject's life.

If, in the investigator's opinion, immediate use of the investigational drug or biological product, or unapproved medical device is required to preserve the subject's life, and if time is not sufficient to obtain an independent physician's determination that the four conditions above apply, the investigator should make the determination and, within 5 working days after the use of the investigational drug or biological product, or unapproved medical device, have the determination reviewed and evaluated in writing by a physician who is not participating in the clinical investigation.

6. The investigator must notify the PHRC within 5 working days after the use of the investigational drug or biological product, or unapproved medical device. Submit completed Partners Human Research Committee (PHRC) Emergency Use Application through Insight/eIRB within **5 working days** after the use of the investigational drug or biologic. The Emergency Use Application must be signed by the staff physician that requested to use the drug or biologic.

**See below for contacts for emergency uses of investigational drugs:**

| <b>Partners</b> | <b>IRB Chair</b>   | <b>Pharmacy Contacts</b>   | <b>Shipping Address</b>  |
|-----------------|--|--|--|
| MGH             | Elizabeth L. Hohmann, MD<br>Office: 617-724-7532<br>Lab: 617-724-8625<br>617-726-0886<br>Pager: PHS #38290 | John Vetrano, RPh<br>Ph: 617-726-2515<br>Fax: 617-724-5013<br><br>Cheryl Reilly-Tremblay, RPh<br>Ph: 617-726-7585<br>Fax: 617-724-5013                             | John Vetrano, RPh<br>Research Pharmacy<br>Massachusetts General<br>Hospital<br>55 Fruit Street<br>Boston, MA 02114 |
| BWH             | Elizabeth L. Hohmann, MD<br>Office: 617-724-7532<br>Lab: 617-724-8625<br>617-726-0886<br>Pager: PHS #38290 | Kevin Anger, PharmD<br>Ph: 617-732-6410<br>Fax: 617-732-7500<br>Pager: 33449<br>Hours: M-F 7 AM-8 PM<br>Weekends/Holidays:<br>7 AM – 5 PM<br>IDS 24/7 Pager: 33672 | IDS Pharmacy<br>Brigham & Women's<br>Hospital<br>Tower L2<br>75 Francis Street<br>Boston, MA 02115                 |