INVESTIGATIONAL DEVICES

1. POLICY

The Birmingham VA Medical Center (BVAMC) Human Research Protection Program (HRPP) is committed to complying with all applicable federal or state requirements applicable to use of investigational drugs in human research, including VHA Handbook 1200.5 Protection of Human Subjects in Research, and FDA IDE (Investigational Device Exemption) regulations which mandate the direction and procedures related to the appropriate handling of investigational devices in research. This BVAMC HRPP standard operating procedure (SOP) is the written policy and procedure regarding investigational devices, and is applicable to all human subject research projects that are conducted by VA investigators in VA facilities, whether the research is funded or unfunded, and regardless of the source of funding.

The FDA definition of a “medical device” includes any instrument, apparatus, or other similar or related article that is intended for use in the diagnosis, treatment, or prevention of disease. Over 1,700 types of medical devices are regulated by the FDA. The Investigator is encouraged to review carefully relevant FDA information sheets concerning devices.

Use of investigational medical devices (devices that have not been cleared for marketing) requires an IDE unless it meets one of the seven categories of device studies that are exempt from the FDA regulations on IDEs. If the investigational medical device does not meet one of the IDE exemption categories, the device must have an IDE. If the study involves a significant risk device, the IDE must be approved by FDA. If the study involves a non-significant risk device, the IDE is approved by the IRB if the device meets the abbreviated IDE requirements. FDA does not approve abbreviated IDEs (studies involving non-significant risk devices).

2. RESPONSIBILITIES

**BVAMC Director** is responsible for assuring that all VHA Directives, FDA, federal, state and local regulations are followed by the BVAMC HRPP, including mandates for investigational devices.

**Chief of Staff, Research and Development (ACOS/R&D)** is responsible for assuring that policies and procedures are implemented, operational and complied with, including those SOPs regarding investigational devices in Research.

**R&D Committee** is responsible for final approval or disapproval of IRB reviewed and approved studies involving investigational devices.
The Institutional Review Board (IRB) is responsible for reviewing all research activities associated with the use of an investigational device in a clinical trial to obtain safety and effectiveness data and to ensure they are conducted according to FDA’s IDE regulations, 21 CFR 812, VA/VHA regulations and other applicable FDA regulations. Specifically, the IRB Administrator and IRB Chair will confirm the device to be studied has an IDE issued by the FDA and that the device fulfills the requirements for an abbreviated IDE. Additionally, the device must not be a banned device. The IRB is responsible for determining if the study of the device is not exempt from IRB review (See SOP # 5) or whether the device to be studied is considered a “significant or non-significant risk” (SR or NSR) to human subjects. The IRB must document the device determination (SR or NSR) and if determined to be of significant risk, require the PI to contact the FDA for an IDE approval. This must be documented in the IRB minutes and in the letter of approval to the PI.

The Principal Investigator (PI) is responsible for adhering to this HRPP SOP and SOP # 13, (Investigator Responsibility), in regards to protecting the rights, safety and welfare of participants under the investigators care with studies involving investigational devices. The PI is responsible for assuring that investigational devices are administered to study participants under their supervision only and not administered to individuals unauthorized to receive it. They must ensure that the investigation is conducted according to the signed investigator statement (letter of assurance), the investigational plan and all applicable VA, FDA IDE regulations, and all applicable federal, state, and local regulations. The PI is responsible for maintaining all correspondence related to the study with other investigators, the IRB, sponsor (if any) a monitor or FDA. All relevant observations and other data pertinent to the investigational study including; progress notes of the physician, tests, case histories, and informed consents (SOP #7). The PI will promptly report to the Sponsor and IRB any adverse effects or unanticipated problems that may reasonably be regarded as caused by or probably caused by the investigational device. It is the responsibility of the Investigator to inform the IRB of correspondence from the FDA determining that an IDE is not needed, or if an IDE has been applied for, approved and/or received. The PI is responsible for assuring that the Sponsor labels the device in accordance with 21 CFR 812.5. The PI is also responsible for ensuring that the sponsor obtains IRB approval of the investigation after presenting the reviewing IRB with a brief explanation of why the device is not a significant risk device, and maintains such approval. The PI is responsible for retaining records for a period of two years following the date a marketing application is approved for the device for the indication for which it is being investigated; or if no application is to be filed or if the application is not approved for such indication until 2 years after the investigation is discontinued and FDA is notified. The PI is responsible for all required reports to the sponsor, including a report for termination of the study.

Sponsor of Investigational Devices ensures that each investigator participating in an investigation of the device obtains from each subject under the investigator’s care, consent under 21 CFR 50 and documents it, unless documentation is waived. The sponsor must comply with the requirements of 21 CFR 812.46 with respect to monitoring investigations. The sponsor maintains the records required under 21 CFR 812.140(b) (4) and (5) and makes the reports required under 21 CFR 812.150 (b) (1) through (3) and (5) through (10). The sponsor ensure that participating investigators maintain the records required by 21 CFR 812.140 (a)(3)(i) and make the reports required under 21 CFR 812.150(a)(1), (2), (5), and (7). Additionally, the sponsor must comply with the prohibitions in 21 CFR 812.7 against promotion and other practices.
3. **DEFINITIONS**

See HRPP SOP #24 – HRPP Definitions

4. **PROCEDURES**

a. **IRB and R&D Approval:** If a study involves a device and the sponsor has not obtained an investigational device exemption (IDE) from the FDA, the IRB, prior to its initial review, must determine and classify whether the device constitutes a “Significant Risk” (SR) or a “Non- Significant Risk” (NSR) or if the protocol meets one of the FDA exemptions from the requirements to have an IDE. A Significant Risk Device study must have a IDE approved by FDA. A Non-Significant Risk Device study has an IDE, but the IDE is not approved by FDA. NSR device studies have fewer regulatory controls than SR studies and are governed by the abbreviated IDE requirements [21 CFR 812.2(b)].

b. If a clinical investigation is submitted to the IRB for a device that has an IDE approved by FDA, the device is considered a SR device. For studies involving devices classified by the sponsor as SR devices, (i) the PI must provide the IRB with documentation of Investigational Device Exemption (IDE) approved by the FDA.

c. If a study involving an investigational device is not submitted with an IDE approved by FDA, the investigator must supply the sponsor’s risk assessment addressing SR/NSR determinations and rationale with the application. The IRB will review the information supplied with the application in the convened IRB meeting to determine whether a device is a SR or NSR device study, whether a IDE approved by FDA is required because the device study meets SR device criteria, and/or whether the IRB agreed with the sponsor’s rationale regarding NSR. The IRB will make its own determination for device classification if the FDA has not previously classified the device. To assist with the risk assessment the IRB utilizes the Investigational Risk Assessment Checklist and the FDA Lists of SR and NSR devices. (See Attached).

d. The IRB and R&D Committee must review and approve investigational device studies after the risk has been classified, including validation of an IDE approved by FDA (if applicable). This will be done by evaluating the IDE number on one of the following materials supplied by the investigator: (1) sponsor protocol, (2) sponsor correspondence, (3) FDA correspondence, or (4) contract research organization correspondence. Research approval involving an FDA-regulated investigational device will only occur after the IRB has received documentation that the research will be conducted under an applicable Investigational Device Exemption (IDE) or has formally determined that satisfactory justification has been provided by the investigator as to why an IDE is not required. Device studies that are determined to be a NSR may be initiated once IRB and R&D Committee approval has been obtained. Non Significant Risk studies do not need an IDE approved by the FDA.

e. **Procedures for Emergency use of an investigational device** – Although request for approval is not necessary by the ACOS, Research and Development or designee it is
recommended if time permits. Initial communication within the facility may be
telephonic to expedite patient care. Please see SOP #23 Emergency Use of Test Article
for more details.

f. **Procedure for Suspension or Termination of Investigational Device Studies:** Upon
suspension or termination of a study involving investigational devices by a sponsor, it is
the PI’s responsibility to notify the IRB and R&D Committee. If the IRB and/or R&D
Committee terminates an investigational device study, it is the investigator’s
responsibility to return or dispose of all investigational devices associated with the study
as per sponsor requirements and/or as specified in the protocol and IRB application. If
the IRB suspends a protocol, the PI must follow SOP # 18 Allegations of
Noncompliance.

5. **REFERENCES**
   - HRPP SOP # 13, Investigator Responsibility
   - HRPP SOP # 7 Informed Consent
   - HRPP SOP # 18, Allegations of Noncompliance
   - VHA Handbook 1200.05, Requirements for the Protection of Human Subjects in
     Research
   - Title 21 CFR 812.100, 812.2 (b) (1) (ii) and 812.3, 812.3 (m) (2), 812.40
   - 510(k) of the FD&C Act

6. **ATTACHMENTS**
   - FDA Significant Risk (FDA information Sheets 1998)
   - FDA Non-Significant Risk (FDA information Sheets 1998)
   - Risk Assessment Checklist

7. **RESCISSIONS**
   HRPP SOP #22 Investigational Devices, Revised January 2011; August 9, 2011; January 31,

8. **REVIEW DATE**
   January 2021

[Signature]
Louis Dell’Italia, MD
ACOS, Research and Development