| University of Washington Human Subjects Division  UW  and HSD logo | **APPLICATION Notification of** **Emergency Use, Drug or Biologic** |
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The Human Subjects Division (HSD) strives to ensure that people with disabilities have access to all services and content. **If you experience any accessibility-related issues with this form or any aspect of the application process, email** **hsdreprt@uw.edu** **for assistance.**

PURPOSE

This form is used by physicians to: **(1)** determine and document whether the circumstances in which they hope to make emergency clinical use of an investigational drug or biologic meets the FDA requirements for emergency use; **(2)** guide them through the procedures required by the FDA and the UW, and Fred Hutchinson Cancer Center (Fred Hutch) if applicable, for emergency use; **and** **(3)** notify the IRB of the emergency use within 5 business days after the use.

*If you have never used a drug or biologic in this fashion, you are strongly encouraged to speak with someone in one of the UW Investigational Drug Services (IDS) as soon as possible. Review* [***Step 3***](#Step3) *below for IDS contact information.*

INSTRUCTIONS

* **NOTE –** Some requirements may differ depending on whether UW Medical Center (UWMC), Harborview Medical Center (HMC), or Fred Hutchinson Cancer Center (Fred Hutch) is administering the emergency use. These differences are highlighted throughout the form.
* **Physician follows steps 1-9 outlined below.** Many of the steps can be done concurrently.
* **Physician follows step 10 to notify the FDA of the emergency use.**
* **Physician fills out the IRB notification form in step 11 and submits it to HSD via:** **hsdreprt@uw.edu****.** Completion of the form is not required until after the emergency use has occurred, but the form and all other required reporting must be completed within 5 business days after the drug or biologic was used. The form should *not* be submitted via *Zipline*, the web-based application system.
* **HSD staff and the IRB Chair complete the IRB assessment described in step 12.**
* **HSD considers each of the hospital facilities** that are part of UW Medicine or the Cancer Consortium to be separate institutions for emergency use of a drug or biologic (i.e., UWMC, Harborview, Fred Hutch, Northwest Hospital).
* **Residents, fellows, and trainees** may use an investigational drug or biologic for emergency clinical care only with the advance knowledge of a service chief or similar individual per UWMC, HMC, or Fred Hutch policy.
* **Outcome information for an emergency use is not considered to be research data** and may not be used, presented, or published as research.
* **Consider the probability of possible future use of the investigational drug or biologic at UWMC, Harborview, or Fred Hutch.** If it is likely, you should initiate efforts to obtain IRB approval and FDA permission for those future uses under an alternative expanded access mechanism (review [website](https://www.washington.edu/research/hsd/guidance/expanded-access/)). These require a full IRB application.

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STEP 1 – Evaluate whether the use meets the FDA criteria for emergency use

**All of the criteria listed below must be met.** If the situation does not meet these criteria and the use is planned at UWMC or HMC, contact the Human Subjects Division (HSD) for advice at hsdreprt@uw.edu. For use at Fred Hutch, also contact Clinical Research Support (CRS) Regulatory Affairs at RegulatoryAffairs@fredhutch.org.

1. **The patient has a** **serious or immediately life-threatening disease or condition**. [21 CFR 312.305(a)(1)]
	* + *Immediately life-threatening* means a stage of disease in which there is a reasonable likelihood that death will occur within a matter of months or in which premature death is likely without early treatment. [21 CFR 312.300(b)]
	* *Serious disease or condition* means a disease or condition associated with morbidity that has a substantial impact on day-to-day functioning. Short-lived and self-limited mobility will usually not be sufficient, but the morbidity need not be irreversible, provided it is persistent or recurrent. Whether a disease or condition is serious is a matter of clinical judgement, based on its impact on such factors as survival, day-to-day function, or the likelihood that the disease, if left untreated, will progress from a less severe condition to a more serious one. [21 CFR 312.300(b)]
2. **There is no comparable or satisfactory alternative therapy.** [21 CFR 312.305(a)(1)]
3. **The potential benefit justifies the potential risk of the use, and those potential risks are not unreasonable in the context of the disease or condition.** [21 CFR 312.305(a)(2)]
4. **The probable risk to the patient from the investigational item is not greater than the probable risk from the disease or the condition.** [21 CFR 312.310(a)(1)]
5. **The emergency use will not interfere with the initiation, conduct, or completion of any clinical investigations of the item that could support marketing approval of expanded access to the item or otherwise compromise the potential development of expanded access use of the item.** [21 CFR 312.305(a)(3)]
6. **There is not sufficient time to obtain IRB review and approval of the use.** [21 CFR 56.102(d); 21 CFR 56.104(c)]
	* *Not sufficient time* is not defined by the FDA. HSD and Fred Hutch define it as seven (7) business days: two working days for the physician to prepare and submit an IRB application, followed by five (5) working days required for a full IRB committee OR IRB Chair to review the application.
7. **The use of the drug or biologic is not already available to the physician through an ongoing clinical investigation at the UW.**

STEP 2 – Obtain authorization from the manufacturer and the FDA

**Contact the manufacturer** (or other source of the item) to determine whether the investigational item can be made available for the emergency use.

* Ask the manufacturer for permission to use the drug or biologic under the emergency use mechanism
* Ask the manufacturer whether they have an existing IND (Investigational New Drug application) that they will allow to be amended for this emergency use.
	+ **If yes**, ask whether: **(1)** they are willing to submit the amendment to the FDA; **or (2)** they want you (the treating physician) to prepare and submit the amendment to the FDA. If they want you to submit the amendment, ask them for permission to refer to their existing IND documents.
	+ **If no**, you will need to submit an application to the FDA for an Emergency IND.
		- Ask the manufacturer for permission to refer to their manufacturer’s IND and supporting documents.
		- FDA instructions for applying for an Emergency IND can be found at [this link](https://www.fda.gov/news-events/expanded-access/expanded-access-information-physicians).
* You may need to arrange for shipping of the drug or biologic to UWMC, HMC, or Fred Hutch Investigational Drug Services (IDS) as described in [**Step 3**](#Step3), below. If the manufacturer requires a letter from the IRB before considering your request or shipping the item, contact the Human Subjects Division at hsdreprt@uw.edu.

**FDA authorization must be obtained before the use can occur.**

For emergency use at UWMC or HMC, the treating physician should [contact the FDA](https://www.fda.gov/regulatory-information/search-fda-guidance-documents/emergency-use-investigational-drug-or-biologic).

* **Drugs.** Division of Drug Information; (301) 796-3400, (888) 463-6332; druginfo@fds.hhs.gov
* **Biological blood products.** Office of Blood Research and Review; (240) 402-8360
* **Biological vaccine products.** Office of Vaccines Research; (240) 402-7800
* **General biologics.** CBER, Office of Communication, Outreach & Development; (301) 827-4081; ocod@fda.hhs.gov
* **After working hours.** Office of Crisis Management & Emergency Operations; (301) 796-8240, (866) 300-4374; emergency.operations@fda.hhs.gov

For emergency use at Fred Hutch, the treating physician should work with Regulatory Affairs to contact the FDA (RegulatoryAffairs@fredhutch.org).

STEP 3 – Coordinate with Investigational Drug Services (IDS)

**Contact the applicable IDS for where the drug is planned to be used (UW, Harborview, Fred Hutch) *as soon as possible* to inform them of the planned use and shipment of the drug or biologic.** Do not wait until you have obtained authorization from the FDA and/or the manufacturer. IDS is a valuable source of guidance and assistance for emergency use situations. You must comply with IDS policies and procedures about the receipt, storage, and dispensing of the item.

* **UWMC IDS:** (206) 598-6054, uwids@uw.edu
* **HMC IDS:** (206) 744-5448, hmcids@uw.edu
* **Fred Hutch IDS:** (206) 606-2207, ids.clinical@fredhutch.org
* **Fred Hutch Cellular Therapy Laboratory:** (206) 606-1200, ctlsupervisor@fredhutch.org and ctlcto@fredhutch.org

**Provide the appropriate group above with the following information.**

* Name of the drug or biologic
* The source from which you are obtaining it (e.g., the drug company’s name)
* Any information regarding administration, preparation instructions, and dispensing instructions (dose, route, frequency, etc.). For example, the pharmacist must be able to verify that the written order is correct and that no transcription errors occurred (e.g., 1mg vs. 1gm) before the drug can be released from the pharmacy.
* Estimated date and time of use
* For cell products, due to the complexity of product preparation, as much lead time as possible is required to assess feasibility. Fred Hutch may only be able to support emergency use of a product from a provider with an already established process.

STEP 4 – Institutional Clearance: determine the financial arrangements

For emergency use at UWMC or HMC, contact the UW Medicine Financial Access Clearance Team (FACT)atfact-compassionateuse@uw.edu)to determine who will be responsible for paying for the drug or biologic and any associated procedures, monitoring, and follow-up (including after the drug or biologic has been used).

For emergency use at Fred Hutch, inform researchrc@fredhutch.org, providing the patient name, MRN, and proposed date(s) of treatment. Also send them the FDA permission letter when it becomes available.

STEP 5 – Institutional Clearance: independent concurrence for use

**UWMC and HMC** require you to obtain permission from the appropriate Medical Director (or designee) for the emergency use. **For use at Fred Hutch**, obtain permission from the Fred Hutch Chief Medical Officer (or designee).

To meet this requirement, the Medical Director/Officer (or designee) reviews the patient’s record and writes a statement in the medical record or provides other documentation.

HSD believes that this step addresses the FDA’s recommendation for an independent assessment from an uninvolved physician.

STEP 6 – Institutional Clearance: Billing Compliance

You are required to submit your expanded access use via the central intake form for relevant institutional review: <https://redcap.link/studyintake>.

STEP 7 – Contact OSP about Expanded Access Agreements

For expanded access use at a UW Medicine-managed facility (including Harborview Medical Center), Fred Hutch, or where expanded access is occurring under an IND associated with an existing award under the UW Office of Sponsored Programs (OSP), an Expanded Access Agreement may be required. Please review and follow the instructions [here](https://www.washington.edu/research/myresearch-lifecycle/setup/sponsor-requirements/clinical-research/) under the *Compassionate Use or Single Patient Emergency Enrollment* section. Contact osp@uw.edu with any questions.

STEP 8 – Informed consent

**The FDA’s informed consent requirements for emergency use are described below.** The consent form is not the same as for a standard clinical consent. The FDA requires the consent process to include all the standard elements of a *research* consent. The UW [**TEMPLATE Consent Form, Emergency or Compassionate Use**](https://www.washington.edu/research/forms-and-templates/template-consent-form-emergency-or-compassionate-use/) meets this requirement and must be used for UWMC, HMC, and Fred Hutch. If you will be able to obtain consent, begin the consent process as soon as possible by discussing the situation with the patient and/or the patient’s legally authorized representative even if you don’t yet have a consent form ready.

When administering an emergency use drug or biologic to a patient with limited English proficiency, it is preferred that the consent form be translated into the patient’s primary language. If there is insufficient time and opportunity to obtain a written translation, the physician should: **(1)** create an English consent form using the [**TEMPLATE Consent Form, Emergency or Compassionate Use**](https://www.washington.edu/research/forms-and-templates/template-consent-form-emergency-or-compassionate-use/); **(2)** use a medical interpreter to verbally review the consent form with the patient; **and** **(3)** have an impartial third party witness the consent process and sign the consent form.

**Options for consent, in order of FDA preference:**

1. **Whenever possible,** **obtain consent** from the patient or the patient’s legally authorized representative (LAR) using the [**TEMPLATE Consent Form, Emergency or Compassionate Use**](https://www.washington.edu/research/forms-and-templates/template-consent-form-emergency-or-compassionate-use/). Place a signed copy of the consent form in the patient’s medical record and retain an unsigned copy to send to the IRB after the emergency use. You may choose to obtain a clinical consent *in addition* to the emergency or compassionate use consent.
2. **If it is not possible to obtain consent**, the emergency use may still proceed if the treating physician and an independent physician (Medical Director/Officer or designee) agree that four specific conditions apply (see below). When using this option, the independent physician must sign the IRB Notification form, or you may attach an email attestation from the independent physician stating that all four conditions were met.
3. **If immediate use of the drug or biologic is, in the treating physician’s opinion, required to preserve the life of the subject** and time is not sufficient to obtain the concurrence of an independent physician (Medical Director/Officer or designee) in advance as described in point 2 above, the treating physician may proceed if all four of the conditions described below are met. Within 5 business days after the use, the treating physician must obtain an independent physician’s assessment as to whether the four conditions were met. When using this option, the independent physician must sign the IRB Notification form, or you may attach an email attestation from the independent physician stating that all four conditions were met.

**Four conditions that must be in place for proceeding with the emergency use without obtaining patient or LAR consent.** [21 CFR 50.23(a)]

1. The patient is confronted by a life-threatening situation necessitating the use of the investigational drug or biologic.
2. Informed consent cannot be obtained from the patient because of an inability to communicate with, or obtain legally effective consent from, the patient.
3. Time is insufficient to obtain consent from the patient’s legally authorized representative.
4. There is no available alternative method of approved or generally recognized therapy that provides an equal or greater likelihood of saving the life of the patient.

STEP 9 – Proceed with the emergency use.

**Once steps 1-6 have been completed, the physician may proceed with the emergency use.**

STEP 10 – Notification to the FDA

**The FDA requires notification when the emergency use has been completed.**

**UWMC and HMC reporting:**

* If the manufacturer submitted an amendment to the FDA or obtained the emergency IND, provide the report to the manufacturer who will then report to the FDA.
* Otherwise, the treating physician reports directly to the FDA within 15 working days of FDA’s authorization (see FDA contact information in [**Step 2**](#Step2)and instructions under [FDA Emergency IND Timeline](https://www.fda.gov/drugs/investigational-new-drug-ind-application/emergency-ind-timeline))

**Fred Hutch reporting:**

* Work with Regulatory Affairs to notify the FDA (RegulatoryAffairs@fredhutch.org)

**Report contents:**

* A summary of the conditions constituting the emergency
* Patient outcome and results, including any adverse effects
* Patient protection measures that were followed, which might include:
	+ Obtaining informed consent from the patient or a legal representative
	+ Involvement of Investigational Drug Services (IDS)
	+ Authorization from the manufacturer
	+ An independent assessment from a physician (the Medical Director/Officer or designee) who is not conducting any research using the drug/biologic

STEP 11 – IRB Notification Form

**Notifying the IRB is an FDA requirement. This application should be submitted by the treating physician to** **hsdreprt@uw.edu** **within 5 business days after the emergency use. If a letter was issued by HSD prior to the manufacturer considering your request or shipping the item, include a copy of the letter with your application.**

**Type your answers into the form below.**

**11.1. Treating physician’s name (first, last).**

|  |
| --- |
| Click or tap here to enter text. |

**11.2. UW or Fred Hutch Department or Division.**

|  |
| --- |
| Click or tap here to enter text. |

**11.3. Treating physician contact information.**

|  |  |
| --- | --- |
|  **Phone:** | Click or tap here to enter text. |
|  **Email:** | Click or tap here to enter text. |

**11.4. If you are a resident, fellow, or trainee, provide the name of your Service Chief (or other appropriate individual).**

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| Click or tap here to enter text. |

**11.5. Investigational drug/biologic information.**

|  |  |
| --- | --- |
|  **Name of the drug/biologic:** |  |
|  **IND #:** | Click or tap here to enter text. |
|  **Manufacturer:** | Click or tap here to enter text. |

**11.6. Use of drug/biologic.**

|  |  |
| --- | --- |
| **Facility in which the drug/biologic was used:** | Click or tap here to enter text. |
|  **Date and time of use:** | Click or tap here to enter text. |
|  **Patient age:** | Click or tap here to enter text. |
| **Dosing description (# doses, route, duration, etc.):** | Click or tap here to enter text. |

**The following questions may be answered here or by attaching the report that was provided to the FDA and/or the manufacturer.**

|  |  |
| --- | --- |
|  **Condition for which the drug/biologic was used:** | Click or tap here to enter text. |
| **Current patient status/result of use:** | Click or tap here to enter text. |

**11.7. Was informed consent obtained from the patient or the patient’s legal representative?**

[ ]  **Yes →** And I will include with my email submission an unsigned copy of the consent form that was used.

[ ]  **No →** Because it was not possible to obtain consent and, *prior to the emergency use*, I (treating physician) **and** an independent physician determined that the [four conditions for not obtaining consent](#NoConsent) were met. The independent physician has signed this notification form, or I will include with my application materials an email from the independent physician stating that they determined those four conditions were met for this emergency use.

[ ]  **No →** Because I (treating physician) determined that immediate use of the drug/biologic was required to preserve the life of the patient and I did not have time to obtain concurrence from an independent physician. *After the emergency use* I obtained concurrence from an independent physician that the [four conditions for not obtaining consent](#NoConsent) were met. The independent physician has signed this notification form, or I will include with my application materials an email from the independent physician stating that they determined those four conditions were met for this emergency use.

**11.8. Signatures**

**Treating physician.** By my signature, I certify that all of the requirements for emergency use were met in this situation.

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Printed name Signature Date

**Assessment of independent physician (Medical Director or designee).** By my signature, I certify that all [four of the conditions listed in Step 6](#Conditions) of this application form are met in this emergency use situation.

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Printed name Signature Date

12 IRB Assessment [To be completed by HSD Regulatory Affairs (RA) staff and IRB Chair]

**12.1 HSD RA Staff Instructions**

**12.1.a** Verify the submission is complete.A completed submission includes:

* A completed IRB Notification form (above), including all required signatures (or attached email attestation)
* If consent was obtained, an unsigned copy of the consent form that was used to treat the patient which should have been adapted from [TEMPLATE Consent Form, Emergency or Compassionate Use](https://www.washington.edu/research/forms-and-templates/template-consent-form-emergency-or-compassionate-use/). If the UW template was not used, review the consent form and determine whether any additional information should be provided to the patient.
* If consent was not obtained, verify there is a signature (or email attestation) from an independent physician certifying that the conditions were met for not obtaining consent

**12.1.b** Email the complete notification form and supporting materials to the IRB Chair.

**12.1.c** Once the Chair evaluation is complete, email the treating physician to inform them of the outcome.

**12.1.d** Use the **INSTRUCTIONS Zipline for Staff** *Submit RNI for a Single Patient Expanded Access Steps* to enter the notification into *Zipline*. Submit the RNI Pre-Review and RNI Data Entry steps according to **INSTRUCTIONS Zipline for Staff.** There is no need to make any assessments or determinations related to Expanded Access RNI.

**12.2 IRB Chair Instructions**

**12.2.a** Evaluate the notification materials according to the FDA criteria described in this form.

**12.2.b** Contact the treating physician, or ask HSD staff to contact them, about any issues or concerns.

**12.2.c** Email the HSD staff person to confirm that you have reviewed the notification and, in your opinion, either: **(1)** the emergency use *met* the FDA requirements; or **(2)** the emergency use *did not meet* the FDA requirements. This decision will be documented in Zipline and communicated with the treating physician.