1.0 Purpose:

1.1 In accordance with the Food and Drug Administration (FDA), the Institutional Review Board (IRB) must approve the use of all Humanitarian Use Devices (HUDs) to be administered to, and/or implanted in, a patient at Hartford HealthCare (HHC) as set forth in the policy.

2.0 Definitions:

2.1 **Humanitarian Use Device (HUD) -** As defined in 21 CFR 814.3(n) is a medical device intended to benefit patients in the treatment or diagnosis of a disease or condition that affects or is manifested in fewer than 8,000 individuals in the United States per year. HUDs can only be used in a facility after an IRB has approved their use in their facility, except in certain emergencies.

2.2 **Humanitarian Device Exception (HDE) -** An application that is similar to a premarket approval (PMA) application, but because a HUD is exempt from the effectiveness requirements of a PMA, an HDE application is not required to contain the results of scientifically valid clinical investigations demonstrating that the device is effective for its intended purpose.

2.3 **Pre-Market Approval (PMA) -** The FDA process of scientific and regulatory review to evaluate the safety and effectiveness of Class III medical devices (See http:www.fda.gov/cdrh/devadvice/3132.html#class_3 for class III device information).

2.4 **Serious Injury -** An injury or illness that (1) is life-threatening, (2) results in permanent impairment of a body function or permanent damage to a body structure, or (3) necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure (21 CFR 803.3).

3.0 Procedure:

3.1 **Clinician Requirements:**

3.1.1 Submit all required paperwork to FDA for an HDE. FDA issues an HDE for the device to be permitted for use in humans.

3.1.2 Clinicians submit all required protocol-related documents to the IRB for review at a convened meeting:

3.1.2.1 Copy of the HDE approval order
3.1.2.2 A description of the device
3.1.2.3 The product labeling
3.1.2.4 The patient information packet that may accompany the HUD
3.1.2.5 Consent form for the use of the HUD
3.1.2.6 A summary of how the Clinician proposes to use the device, including a description of any screening procedures, the HUD procedure, and any patient follow-up visits, tests or procedures.

3.1.3 The IRB may approve use of the HUD without any further restrictions, or under a protocol, or on a case-by case basis. The convened Board may make the determination at initial review that continuing review may occur using the expedited procedure if the HUD is not being used in the course of a research study.

3.1.4 Although neither the FD&C Act nor FDA regulations require informed consent from patients who are treated or diagnosed with an HDE-approved HUD in the course of their clinical care, the HHC IRB may, however, choose to require that patients receive certain information about the HUD when the committee approves use of the HUD for clinical care. If the IRB requires that patients receive a written document prior to use of the HUD in clinical care, the document should include much of the information found in the HDE patient labeling.

3.1.4.1 If no patient information packet is available, the HDE holder may consider including the following in any written information provided to patients:

3.1.4.1.1 an explanation that the HUD is designed to diagnose or treat the disease or condition described in the HDE labeling and that no comparable device is available to treat the disease or condition;
3.1.4.1.2 a description of any ancillary procedures associated with the use of the HUD;
3.1.4.1.3 a description of the use of the HUD;
3.1.4.1.4 all known risks or discomforts; and an explanation of the postulated mechanism of action of the HUD in relation to the disease or condition

3.1.4.2 The IRB may decide to require inclusion of this or other information explicitly as part of a written document provided to patients. The HHC IRB template for Research Informed Consent may be used for this purpose.

3.1.4.3 All patients who are treated or diagnosed with an HDE-approved HUD in the course of a research study are to be informed of the use of an HUD by signing an informed consent form. .

3.1.5 **Adverse Event Reporting**

3.1.5.1 Device user facilities and manufacturers are required to submit medical device reports to FDA and to HHC's IRB (See sections 519(a) and (b) of the Act; 21 CFR 803.30, 803.50, and 814.126(a)). Among these requirements, manufacturers must submit reports to the FDA and the IRB whenever a HUD may have caused or contributed to a death or serious injury, or has malfunctioned and would be likely to cause or contribute to a death or serious injury if the malfunction were to recur (21 CFR 803.50 and 814.126(a)).

3.1.5.2 User facilities must submit reports to FDA, the IRB, and the manufacturer whenever a HUD may have caused or contributed

to a death, and must submit reports to the manufacturer (or to FDA and the IRB if the manufacturer is unknown) whenever a HUD may have caused or contributed to a serious injury (21 CFR 803.30 and 814.126(a)).

3.2 **IRB Consideration**

3.2.1 For initial review of a HUD, the IRB is required to perform their review at a convened meeting (21 CFR 56.108). For continuing review, the IRB may use the expedited review procedures (21 CFR 56.110). When applicable, review of the use of a HUD and review of the investigational use of a HUD in a clinical investigation may be done simultaneously.

3.2.2 IRB approval, informed consent, and additional safeguards for children (if applicable) are required for the clinical investigation (investigational use) of a HUD, whether the HUD is being studied for its HDE-approved indication(s) or for a different indication.

3.2.3 IRB approval is required before a HUD is used at HHC to treat or diagnose patients.

3.2.4 In other words, just because the IRB has approved use of a HUD at HHC to treat or diagnose patients does **not** mean that the IRB has approved investigational use of the HUD (i.e., in a clinical investigation), for the collection of safety and effectiveness data. For more information on the difference between "use" of a HUD and "investigational use" vs. "clinical investigation" of a HUD, see “Figure 1: Decision Tree for IRB Review of HUDs” at the end of this policy.

3.2.5 When the IRB is deciding whether to approve use of a HUD at HHC its review does not include a Significant Risk or Non-Significant Risk determination.

3.2.6 The IRB takes into consideration that the FDA has made a determination of safety and probable benefit for use of the HUD only within its approved indication(s).

3.3 **Emergency Use of a HUD**

3.3.1 If an emergency situation arises in which IRB approval for the use of the HUD cannot be obtained in time to prevent serious harm or death to a patient, a HUD may be used without prior IRB approval.

3.3.2 The Clinician must report the emergency use within five (5) days to the IRB, including identification of the patient involved, the date of the use, and the reason for the use. See section 520(m)(4) of the Act; 21 CFR 814.124.

3.3.3 The Clinician should also report this to the FDA as a HDE report.

4.0 Documentation:

4.1 The HHC HRPP office will maintain all records related to the implementation of this policy, electronic communications and notifications to investigators, funding or regulatory agencies, etc.

4.2 Records will be archived for a period of at least six (6) years following the termination or completion of the research activities.

5.0 References:

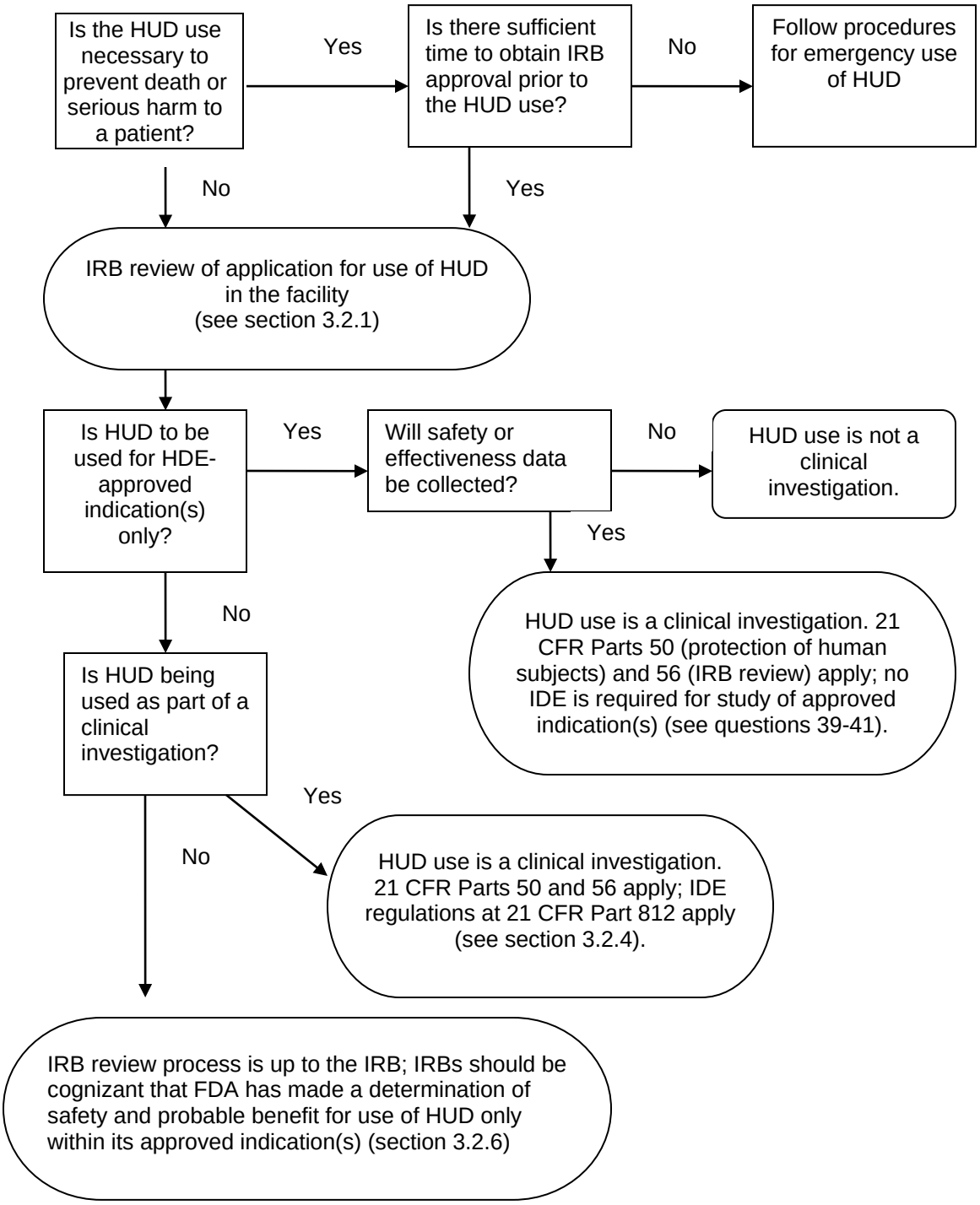
5.1 FDA21 CFR 803.30, 803.50
5.2 FDA21 CFR 56.108, 56.110
5.3 FDA 21 CFR 814
5.4 Guidance for Industry and Food and Drug Administration Staff - Humanitarian Device Exemption (HDE) Program (September 6, 2019)
5.5 Guidance for Industry and Food and Drug Administration Staff - Humanitarian Use Device (HUD) Designations (Revision 1 issued: September 5, 2019)

6.0 Revision History:

Rev #	Initials	Effective Date	Description of Change(s)
01	CLG	7/1/11	Conversion to new policy template; significant expansion of policy
02	CLB	3/15/20	Updated content based on guidance released September 2019

Element I.7.A.

Figure 1: Decision Tree for IRB Review of HUDs



Note: Medical device reporting is required under 21 CFR Part 803 whenever the use of a HUD may have caused or contributed to a death or serious injury, or has malfunctioned and would be likely to cause or contribute to a death or serious injury if the malfunction were to recur (see questions 30, 49, 65). For investigational use of a HUD under an IDE, reports of unanticipated adverse device effects must be reported under 21 CFR 812.150(a)(1) and 812.150(b)(1).