The purpose of this supplement is to assist investigators and research personnel in drafting a research protocol and consent form for studies involving drugs and medical devices.

*Please note: This supplement is not the entire protocol. This document includes additional instructions for relevant sections of the IRB protocol. Please use this supplement to inform your responses in the larger protocol.*

**The instructions and optional text are in blue** and required text is in black.

**For the Protocol:**

1. **Consent Process**

**Waiver of Informed Consent:** If the study is FDA-regulated, a consent procedure which does not include, or which alters some or all of the elements of informed consent is not permitted. Consent may only be waived in certain emergency situations.

**Waiver of Documentation of Informed consent:** If you are seeking a waiver of documentation (signature) of informed consent, justify the request here. Only research activities that are minimal risk and do not require a signature outside the research context are eligible for a waiver of documentation of informed consent under the FDA-regulations. If the study is greater than minimal risk, signatures on a consent form are required. However, if, for example, you are proposing to collect eligibility screening information over the telephone and collecting this information is minimal risk, a waiver of documentation may be permitted for the eligibility screening process provided that a signed consent process occurs prior to the greater than minimal risk research activities. Consent information related to the eligibility screening should still be provided prior to collecting information about potential subjects.

1. **Drugs or Biologics**

The term drug includes:

1. FDA approved drugs,
2. unapproved use of approved drugs,
3. investigational drugs,
4. biologics,
5. other compounds intended to affect the structure or function of the body, and
6. in some cases dietary supplements, or substances generally recognized as safe (GRAS)

when they are used to diagnose, cure, mitigate, treat, or prevent disease.

**If using a dietary supplement or food, skip to the “Dietary Supplements and Food” section below.**

Under FDA regulations, research that involves use of a drug, other than the use of a marketed drug in the course of medical practice, must have an Investigational New Drug (IND) Application, unless the study meets one of the exemptions from the IND requirement

For additional assistance in determining whether a study involves a drug and whether that drug requires an IND, see:

<http://research.oregonstate.edu/irb/policies-and-guidance-investigators/decision-trees/investigational-new-drug>

**If there is no IND, provide documentation establishing that the clinical investigation of the investigational drug falls within one of the following exemptions:**

1. The drug being used in the research is lawfully marketed in the United States and all of the following requirements are met:
   * The research is not intended to be reported to FDA in support of a new indication for use or to support any other significant change in the labeling for the drug
   * The research is not intended to support a significant change in the advertising for the product;
   * The research does not involve a route of administration or dosage level, use in a subject population, or other factor that significantly increases the risks (or decreases the acceptability of the risks) associated with the use of the drug product
   * The research is conducted in compliance with the requirements for IRB review and informed consent [21 CFR parts 56 and 50, respectively]
   * The research is conducted in compliance with the requirements concerning the promotion and sale of drugs [21 CFR 312.7]
   * The research does not intend to invoke FDA regulations for planned emergency research [21 CFR 50.24].
2. The research only involves one or more of the following: (a) Blood grouping serum, (b) Reagent red blood cells or (c) Anti-human globulin;
3. For clinical investigations involving an in vitro diagnostic biological product, an IND is not necessary if (a) it is intended to be used in a diagnostic procedure that confirms the diagnosis made by another, medically established, diagnostic product or procedure; and (b) it is shipped in compliance with 312.160

* List all drugs or biologics to be used in this study. Include the following for each drug or biologic:
  + 1. Drug Name (include generic and trade name, if applicable):
    2. Approval Status (e.g. FDA Approved, FDA Approved/Unapproved Use, not FDA approved):
    3. Chemical formula:
    4. Dosage strength(s):
    5. Rationale for choosing the drug or substance dose:
    6. Method/route of administration:
    7. Mechanism of action:
    8. Known drug interactions:
    9. Manufacturer/Sponsor:
    10. Manufacturer/Sponsor Location:
    11. Name of supplier:
    12. IND Status:

\_\_\_\_No IND required (provide justification and/or attach any correspondence or documentation from the FDA or commercial sponsor, if available)

\_\_\_\_IND submitted and pending FDA approval or 30 day clearance period

\_\_\_\_IND approved by the FDA

* + - * IND number, if applicable:
      * IND submitted/held by:

Provide a copy of the letter from the FDA or industry sponsor setting forth the IND number

* + 1. Documentation or certification of quality or purity:
* If applicable, provide copies of the investigator brochure, approved labeling, and package insert.
* Summary of preclinical and early human studies (for studies with an IND):
* Justification and safety information if FDA approved drugs will be administered for non-FDA approved indications or if doses or routes of administration or subject populations are changed:
* Plan for the storage, dispensing, handling, inventory control, and disposal of investigational, FDA-approved drugs, and/or biologics:
* Explain whether the use of the test article involves a route of administration or dosage level, use in a subject population, or other factor that significantly increases the risks (or decreases the acceptability of the risks) associated with its use:

**NOTE**: If there is any ambiguity about whether an IND is needed, the IRB may request that the PI provide a determination from the FDA. The PI may choose to request such a determination pre-emptively by taking the following steps:

* Complete FDA forms 1571 and 1572. These forms are available on the FDA website: <http://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/InvestigationalNewDrugINDApplication/ucm071073.htm>
* Submit completed forms to FDA, along with a copy of the protocol to be submitted to the IRB.
* Include cover letter specifically requesting a written determination regarding the need for an IND.
* FDA will respond within 30 days. The response may then be submitted to the IRB.

1. **Dietary Supplements or Food**

A dietary supplement is a product taken by mouth that is intended to supplement the diet and that contains one or more "dietary ingredients". The "dietary ingredients" in these products may include

* vitamins
* minerals
* herbs or other botanicals
* amino acids
* other substances found in the human diet, such as enzymes

In some cases dietary supplements or substances generally recognized as safe (GRAS) are considered to be drugs when they are used to diagnose, cure, mitigate, treat, or prevent disease. Under FDA regulations, research that involves use of a drug other than the use of a marketed drug in the course of medical practice must have an Investigational New Drug (IND) Application, unless the study meets one of the exemptions from the IND requirement.

Dietary supplements or other substances designated as generally recognized as safe (GRAS) for use in food may be exempt **if** the study is intended to evaluate effect on structure or function of the body. Studies designed to evaluate a supplement’s ability to diagnose, cure, mitigate, treat or prevent disease are NOT exempt from IND submission requirements.

If you intend to make claims about disease prevention or treatment, you need an IND. **Contact the FDA before submitting application materials to the IRB.** If you are planning to limit claims to structure and function, you may not need an IND.

For additional assistance in determining whether your study involves a drug and whether that drug requires an IND, see:

<http://research.oregonstate.edu/irb/policies-and-guidance-investigators/decision-trees/investigational-new-drug>

If you are preparing or serving food as part of the study intervention, please respond to items 1 and 2 below, even if you are not planning to make any claims about the food as part of this research study.

1. List all dietary supplements or foods to be used in this study:
2. If foods will be used that are purchased in a grocery store or are on the FDA GRAS list (<http://www.accessdata.fda.gov/scripts/fcn/fcnNavigation.cfm?rpt=scogsListing>), please state this information and indicate where preparation, handling, and storage will occur:
3. Otherwise, include the following for each supplement or food:
   1. Name:
   2. Chemical formula:
   3. Dosage strength(s):
   4. Rationale for choosing the supplement, the dose, and/or the food product:
   5. Method/route of administration:
   6. Mechanism of action:
   7. Known drug interactions:
   8. Manufacturer/Sponsor:
   9. Name of supplier:
   10. IND Status:

\_\_\_\_No IND required (provide justification and/or attach any correspondence or documentation from the FDA or commercial sponsor, if available)

\_\_\_\_IND submitted and pending FDA approval or 30 day clearance period

\_\_\_\_IND approved by the FDA

* + - IND number, if applicable:
    - IND submitted/held by:
    - Provide a copy of the letter from the FDA or industry sponsor setting forth the IND number
  1. Documentation or certification of quality or purity:
* Summary of preclinical and early human studies (for studies with an IND):
* Justification and safety information if over-the-counter supplements will be administered for non-approved indications or if doses or routes of administration or subject populations are changed:
* Explain whether the use of the supplement involves a route of administration or dosage level, use in a subject population, or other factor that significantly increases the risks (or decreases the acceptability of the risks) associated with its use:
* Provide a plan for the storage, dispensing, handling, inventory control, and disposal of supplements:

**If there is no IND, confirm that you will be limiting claims to structure and function or provide documentation establishing that the clinical investigation of the supplement falls within one of the following exemptions:**

1. The supplement being used in the research is lawfully marketed in the United States and all of the following requirements are met:
   * The research is not intended to be reported to FDA in support of a new indication for use or to support any other significant change in the labeling for the drug
   * The research is not intended to support a significant change in the advertising for the product;
   * The research does not involve a route of administration or dosage level, use in a subject population, or other factor that significantly increases the risks (or decreases the acceptability of the risks) associated with the use of the drug product
   * The research is conducted in compliance with the requirements for IRB review and informed consent [21 CFR parts 56 and 50, respectively]
   * The research is conducted in compliance with the requirements concerning the promotion and sale of drugs [21 CFR 312.7]
   * The research does not intend to invoke FDA regulations for planned emergency research [21 CFR 50.24].
2. The research only involves one or more of the following: (a) Blood grouping serum, (b) Reagent red blood cells or (c) Anti-human globulin;
3. For clinical investigations involving an in vitro diagnostic biological product, an IND is not necessary if a) it is intended to be used in a diagnostic procedure that confirms the diagnosis made by another, medically established, diagnostic product or procedure; and b) it is shipped in compliance with 312.160

**NOTE**: If there is any ambiguity about whether an IND is needed, the IRB may request that the PI provide a determination from the FDA. The PI may choose to request such a determination pre-emptively by taking the following steps:

* Complete FDA forms 1571 and 1572. These forms are available on the FDA website: <http://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/InvestigationalNewDrugINDApplication/ucm071073.htm>
* Submit completed forms to FDA, along with a copy of the protocol to be submitted to the IRB.
* Include cover letter specifically requesting a written determination regarding the need for an IND.
* FDA will respond within 30 days. The response may then be submitted to the IRB.

1. **Medical Devices**

A medical device is an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component part, or accessory which is:

* recognized in the official National Formulary, or the United States Pharmacopoeia, or any supplement to them,
* intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or
* intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its primary intended purposes.

For additional assistance in determining whether or not the device you plan to use is a “medical device”, see:

<http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Overview/ClassifyYourDevice/ucm051512.htm>

<http://oregonstate.edu/research/irb/sites/default/files/is_it_a_medical_devices.pdf>

If you plan to use an unapproved device or use an FDA-approved device for a purpose not in accordance with its labeling AND you are collecting data about the safety or efficacy of the device, you will need an Investigational Device Exemption (IDE).

Certain devices are exempt from IDE requirements. **If you plan to use a device and no IDE is required, provide documentation establishing that the investigation of the device falls within one of the following categories:**

1. A clinical investigation of a FDA-approved, legally marketed device that is being used in accordance with its labeling.
2. A clinical investigation of a device that the FDA has determined to be substantially equivalent to a device in commercial distribution immediately before May 8, 1976 and that is used or investigated in accordance with the labeling FDA reviewed under Subpart E of 21 CFR Part 807 in determining substantial equivalence;
3. A clinical investigation involving a Diagnostic Medical Device if it complies with FDA labeling requirements and if the testing: (a) is noninvasive; (b) does not require an invasive sampling procedure that presents significant risk; (c) does not by design or intention introduce energy into a subject; and (d) is not used as a diagnostic procedure without confirmation by another medically established diagnostic product or procedure.
4. Consumer preference testing, testing of a modification or testing of a combination of devices if the devices(s) are legally marketed devices and if the testing is not for the purpose of determining safety or effectiveness and does not put subjects at risk.
5. Clinical investigation of a device intended solely for veterinary use.
6. Clinical investigation of a device solely intended for Research with laboratory animals that contains the labeling “Caution – Device for investigational use in laboratory animals or other tests that do not involve human subjects.”

For Additional Information, please also see: <http://oregonstate.edu/research/irb/sites/default/files/medical_devices-exempt.pdf>

If the device does not fall into any of the above categories, an IDE is required. Only significant risk devices require IDE approval from the FDA. An IDE for non-significant risk devices can be approved by the OSU IRB at a convened meeting.

**Significant Risk vs. Non-Significant Risk**

* Significant risk devices present a potential for serious risk to the health, safety, or welfare of a subject. Significant risk devices may include implants, devices that support or sustain human life, and devices that are substantially important in diagnosing, curing, mitigating or treating disease or in preventing impairment to human health. Examples include sutures, cardiac pacemakers, hydrocephalus shunts, and orthopedic implants.

You must obtain FDA approval prior to proceeding with your application to the IRB. Please review the FDA website for instructions on when and how to submit an Investigational Device Exemption Application: <http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/InvestigationalDeviceExemptionIDE/ucm046164.htm>

* Non-significant risk devices are devices that do not pose a significant risk to the human subjects. Examples include most daily-wear contact lenses and lens solutions, ultrasonic dental scalers, and foley catheters. FDA approval is not required for these devices. However, additional investigator requirements apply. Please see the [IRB Policies and Procedures Manuel](http://research.oregonstate.edu/files/irb/irbpoliciesandprocedures.pdf) for additional information.

For assistance in determining if your device is significant risk or non-significant risk, please see: <http://oregonstate.edu/research/irb/sites/default/files/medical_devices-sigrisk.pdf>

Please provide the following information:

* Indication if data related to the safety or efficacy of the device will be collected:
* Rationale for choosing the device to be used:
* Device description, which may include:
  + pictures of the device (where applicable);
  + physical, chemical and/or biological processes/principles used by the device to generate device output, if applicable;
  + physical and biological characteristics of the device output, if applicable;
  + explanation of the user interface and/or how the device interacts with other devices or with the user (medical professional and/or patient);
  + explanation of the materials used in the device;
  + a brief explanation of how the device is manufactured (where necessary);
  + discussion of the mechanism of action and how the device and/or, if applicable, device output is used;
  + for an IVD, detailed technical description of your device including instruments, reagents, components, software, principles of operation, and accessories (if there are changes to a previously cleared or approved device, then you should describe these changes);
  + discussion of the scientific basis for development of the device or an explanation of expected clinical utility;
  + In addition to pictures and a written description, other information about the clinical use of the device, such as a surgical technique guide or video of how the device is used in the clinical setting, may be helpful.
* Proposed Intended Use/Indications for Use, which may include:
* identification of the disease or condition the device is indicated to prevent, mitigate, screen, monitor, treat, or diagnose;
* identification of the target population;
* part of the body or type of tissue to which applied or with which the device is interacting;
* frequency of use;
* physiological use;
* Statement of whether investigators intend to commercialize or market the device\*; statement of whether the device is intended for prescription and/or over-the-counter use;
* For an IVD device, this information should include a detailed draft of the intended use of the device including the intended use population, the analyte/condition to detect, and the assay methodology.
* Indication if there is any future intent to commercialize or patent the device:

**NOTE:** If there is commercialization intent or if investigators hold IP rights or interests in this device, it is considered a financial interest that should be disclosed in the conflict of interest section of the protocol. Additional disclosures may be required in the consent form.

* Device storage and labelling:
* Confirm that all devices received for a study will be stored in a locked environment under secure control with limited access. The area will be within an area of PI’s control. Proper instructions on the use of the device will be provided to the subjects. A log will be kept regarding the receipt, use, and/or dispensing of the device and the disposition of remaining devices at the conclusion of the investigation.
* Provide a copy of the label that will be placed on the device. For additional information about labelling requirements, please see: <http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/InvestigationalDeviceExemptionIDE/ucm051480.htm#labeling>