**Project Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Unique Identifier\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Emergency Use Criteria prior to starting**

**\_\_\_\_\_ Regulatory Determination for Emergency Use:** IRB website has a workflow and criteria at for emergency use <http://www.mcw.edu/hrpp/Emergency-Use-Requests.htm>

**\_\_\_\_\_ Prior Use:** Is the MD aware of any prior use of this item, material or drug in an emergency situation or treatment use situation at this institution before. If so it is unlikely a second use will be approved. If not previously used a reminder of the “one and done” is recommended. Consulting IRB and Investigation Drug Pharmacy is recommended to make this determination.

*Per the past FDA acknowledgement letters: Any subsequent use of an investigational product that has been previously authorized for administration on an emergency basis at your institution is subject to IRB review. However, in the event that this emergency use would constitute a subsequent use at your institution, we recognize that it would be inappropriate to deny the subsequent emergency use due to lack of time to obtain IRB review.*

**\_\_\_\_\_ Insurance and Payment:** Insurance, costs, medicare and payment. Since this is not a clinical trial insurers are not obligated to pay for use, treatment or treatment of complications from use of the investigational agent.

*Medicare Coverage: The Medicare National Coverage Determination (NCD) 310.1: Routine Care Costs in Context of Clinical Trial is not relevant when a provider intends to pursue the FDA for Access Investigative Study agent outside a clinical trial. Medicare & other insurers are not obligated to pay for the study agent, administration of, any associated treatment or treatment of complications from use of the investigational agent. There is a general medicare rule of anything associated with something non-covered is also non-covered.*

*Medicare has no preauthorization process. Medicare requires their beneficiary be informed in writing of these non-covered costs via an ABN (outpt) or HINN (Inpt). These documents can include representation of both hospital & professional services. The hospital & provider then bill these services as non-covered, the pt is liable.*

*For Commercial insured the same documentation is to be found within the legal health record with a statement the pt accepts financial liability for treatment, and wishes to move forward. Providers can seek a conversation with the commercial insurers medical director. Of note: pre-auth is generally a verification that the pt can come to Froedtert—it is not a guarantee of payment.*

*OCRICC can assist in reviewing the pt insurance and the intent to treat under EU, providing guidance for your consent conference.*

**\_\_\_\_\_ Departmental Notifications:** Discussion with department head or other applicable departmental administrator. If part of hematology/oncology department CC CTO must be notified in accordance with CC CTO Policy *“Management of EAP and Treatment Use Protocols”*:

<http://www.mcw.edu/cancercenter/Clinical-Trials-Office-/For-Research-Staff.htm>

**Initiation Activities**

**Discussion with the Patient:** This does not have to occur immediately, but is recommended to just gauge whether the patient would want to receive the investigational item. The patient has the right to change their mind at any time.

**Sponsor/manufacturer support:** The physician should contact the manufacture/sponsor of investigational item to see if they would consider supporting an eIND. If yes:

**\_\_\_\_\_** Confirm if they have an eIND program that the patient qualifies for and if not are they still willing to support the requirements of the eIND.

**\_\_\_\_\_**\_ Discuss who will do the IND submission. Most often company will require MCW to hold the single patient IND.

**\_\_\_\_\_** Get any of their required materials. Some sponsors require FDFs etc.

**\_\_\_\_\_** If available get a protocol or template that can be used to develop the local protocol.

**\_\_\_\_\_** Confirm whether a CTA (clinical trial agreement) or MTA (material transfer agreement) are required prior to shipment of the product

**\_\_\_\_\_** Confirm what case report forms or other data the sponsor will require.

*NOTE: There are limitations to what the sponsor can require in the eIND setting in terms of data as this is not a clinical trial. See question 25 of FDA Guidance on Expanded Access to Investigational Drugs for Treatment Use —Questions and Answers Guidance for Industry*

**Internal Notifications:**

**\_\_\_\_\_\_** IRB <https://www.mcw.edu/HRPP/Emergency-Use-Requests.htm> (Refer to “Procedure for Reporting and Emergency use to the MCW HRPP Office”)

Completion of the e-bridge application is not required prior to use in emergency situations, however discussion with the IRB is required. *Emergency use of an investigational product must be reported to the responsible Institutional Review Board (IRB) within five working days of initiation of treatment [21 CFR 56.104(c)]*

\_\_\_\_\_\_ IDS (Investigational Drug Services) Work with Investigational Drug Pharmacy to confirm shipping address, timing for receipt etc.

\_\_\_\_\_\_\_\_OCRICC [ocricc@froedterthealth.org](mailto:ocricc@froedterthealth.org) .

\_\_\_\_\_\_\_ Grants and Contracts [aor@mcw.edu](mailto:aor@mcw.edu). Work with MCW G & C and company to execute any contracts

\_\_\_\_\_\_ IBC (if applicable) Jason Keaton- BSO /414-955-8060 (office) or 608-215-6195 (cell) jkeaton@mcw.edu or Sandy Jensen- IBC Manager 414-955-8223 to confirm safe to proceed. If the drug or biologic has an Investigator Brochure (IB) this is helpful for IBC review.

\_\_\_\_\_\_ Division Head, CTO or other administrative parties (if applicable)

**Paperwork Prep**

\_\_\_\_\_\_ Work with company to get a LOA (Letter of Authorization or Letter of Cross Reference)

\_\_\_\_\_\_ Work with IRB to determine whether consent is needed and required consent approvals.

\_\_\_\_\_\_ Contact the FDA using the emergency use contact list (see References). FDA will determine the requirements in order to proceed. Sometimes approval is granted over the phone. Best to have at least 2 people on the call. MD is required to answer clinical questions.

\_\_\_\_\_\_ Prepare FDA Packet (Below)

\_\_\_\_\_\_ Review if any clinicaltrials.gov is needed.

*Refer to:* [*https://clinicaltrials.gov/ct2/manage-recs/faq#registerIND*](https://clinicaltrials.gov/ct2/manage-recs/faq#registerIND) *and* [*https://clinicaltrials.gov/ct2/manage-recs/faq#fr\_9*](https://clinicaltrials.gov/ct2/manage-recs/faq#fr_9) *(search for expanded access or single patient IND)*

**FDA Packet Information:**

\_\_\_\_\_ **Cover Letter** should include a very brief summary of what is being requested and who to you want the FDA to contact about the request.

\_\_\_\_\_\_ **FDA form 3926 (**link to form below)

\_\_\_\_\_ **Primary MD Assessment** regarding the condition of the patient and available treatment alternatives.

*Include: rationale for the intended use of the drug, including a list of available therapeutic options that would ordinarily be tried before resorting to the investigational drug or an explanation of why the use of the investigational drug is preferable to the use of available therapeutic options; The criteria for patient selection or, for an individual patient, a description of the patient's disease or condition, including recent medical history and previous treatments of the disease or condition. 21CFR312.305*

\_\_\_\_\_\_ **Independent MD Assessment** regarding the condition of the patient and available treatment as above.

\_\_\_\_\_\_  **Treatment Protocol** including the treatment plan.

Include: Eligibility criteria, method of administration of the drug, dose, and duration of therapy and parameters of discontinuation of therapy, monitoring and dose reductions, description of clinical procedures, laboratory tests, or other monitoring necessary to evaluate the effects of the drug and minimize its risks. 21CFR312.305

\_\_\_\_\_\_ **Consent form** that was or will be used to consent the patient

(A waiver of consent can be requested from the FDA in emergency use settings). If patient is able to consent at a minimum a consent discussion should occur followed by a signed consent once approved.

**Post IND issuance documents:**

\_\_\_\_\_ FDA form 1571 (see below for links to forms)

\_\_\_\_\_ FDA form 1572 (see below for links to forms)

*Note: Although form 3926 can be used initially, FDA will require a complete packet with 1572 and 1571 within 15 days of issuance.* ***Consider including these in the original packet if time permits.***

\_\_\_\_\_\_ IRB acknowledgements and other approvals will need to be submitted to the FDA when available

**Other internal Prep Items to Consider:**

\_\_\_\_\_ Delegation Log (as appropriate)

\_\_\_\_\_ EPIC Beacon Build or Willow Build (as appropriate, consult with IDS)

\_\_\_\_\_ Tip sheets, any required special trainings

**Expanded Access Emergency IND Maintenance:**

**\_\_\_\_\_FDA reports:** The FDA will outline in their “proceed letter” reporting requirements which typically include updates after use of the drug at defined time points. Safety report requirements will also be outlined in the letter. Withdrawal of the IND will be required when all activities are complete including any follow-up.

**\_\_\_\_\_IRB reports:**  The IRB acknowledgement letter and policies and procedures will outline the reporting requirements after initial review by the IRB. Reporting of UPIRSOs to the IRB should be in accordance with IRB policies and procedures. A final report will be required when all activities are complete including any patient follow-up.

**FDA Additional Resources**

* FDA Key Contact Information: <https://www.fda.gov/NewsEvents/PublicHealthFocus/ExpandedAccessCompassionateUse/ucm429610.htm>
* Expanded Access Physician Fact sheet: <https://www.fda.gov/downloads/NewsEvents/PublicHealthFocus/ExpandedAccessCompassionateUse/UCM504494.pdf>
* Emergency IND Timeline: <https://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/InvestigationalNewDrugINDApplication/ucm597130.htm>
* [Form FDA 3926](https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM504572.pdf) for requests for individual patient expanded access to investigational drugs, including emergencies. It can also be used for certain submissions to FDA after the initial application is filed. For more information, including [instructions](https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM504574.pdf), please visit the guidance [Individual Patient Expanded Access Applications: Form FDA 3926](https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM432717.pdf)
* [Form FDA 1571 and 1572](https://www.fda.gov/NewsEvents/PublicHealthFocus/ExpandedAccessCompassionateUse/ucm432757.htm) are required for other expanded access submissions (e.g., intermediate access or treatment INDs) and for IND submissions by commercial sponsors or drug manufacturers.
* [21 CFR 312 Subpart I](http://www.ecfr.gov/cgi-bin/text-idx?SID=c859616b5a665bbcda13092d0c1c063d&node=sp21.5.312.i&rgn=div6)  
  Learn more about FDA’s current expanded access regulations for investigational drugs (including biologics).
* [FDA's Final Guidance: Expanded Access to Investigational Drugs for Treatment Use — Questions & Answers](https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM351261.pdf) (PDF - 75KB)
* [FDA's Final Guidance: Charging for Investigational Drugs Under an IND — Questions & Answers](https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM351264.pdf)(PDF - 57KB)
* [Expanded Access Video for Physicians](https://www.fda.gov/Drugs/ResourcesForYou/HealthProfessionals/ucm419877.htm)  
  FDA Drug Info Rounds pharmacists discuss the requirements that must be met before FDA can authorize Expanded Access and discuss the safeguards in place to avoid exposing patients to unnecessary risks.
* [For Physicians: A guide to Non-emergency single patient expanded access submissions](https://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/InvestigationalNewDrugINDApplication/ucm570937.htm). This website provides a reference chart for initiating single patient expanded access and for follow-up submissions.