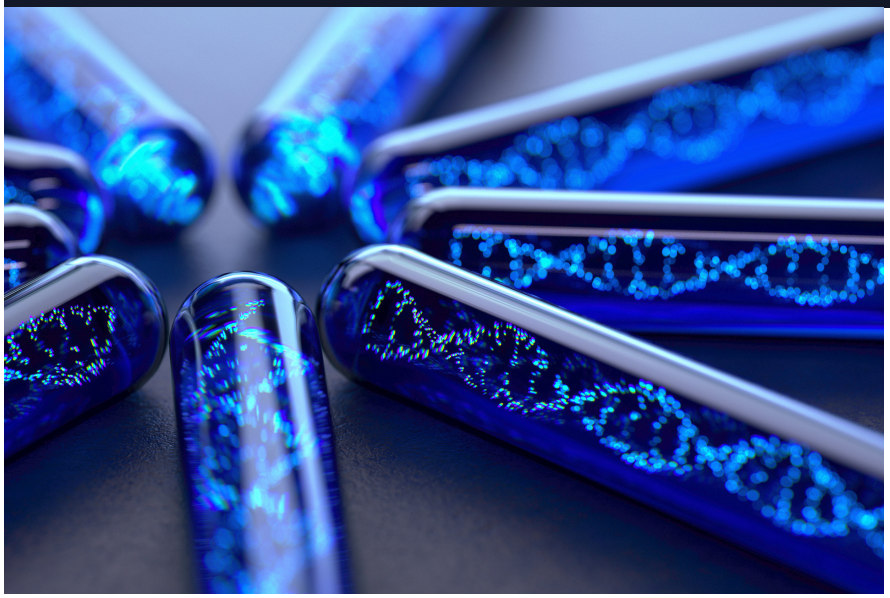
BARNES & THORNBURG LLP



ALERTS

FDA Finalizes Clinical Laboratory Guidance Documents For In Vitro Diagnostic Tests

March 3, 2020

The FDA recently released two final guidance documents that provide recommendations for Clinical Laboratory Improvement Amendment (CLIA) waivers – one titled "Recommendations for Clinical Laboratory Improvement Amendments of 1988 (CLIA) Waiver Applications for Manufacturers of In Vitro Diagnostics Devices" (CLIA guidance) and the other titled "Recommendations for Dual 510(k) and CLIA Waiver by Application Studies" (dual guidance). The ability to rely on the same studies for both applications should be more efficient for test developers.

Under the CLIA, the FDA is responsible for granting waivers for in vitro diagnostic tests that are "simple" and have "an insignificant risk of an erroneous result." The CLIA guidance "describes recommendations for device manufacturers seeking to submit information through a CLIA waiver application to FDA to support a determination whether the device meets these criteria for waiver."

The final CLIA guidance discusses the following components of a CLIA waiver application:

- A description of the device demonstrating that it is simple to use
- The results of risk analysis, including the identification of potential sources of error for the device
- The results of flex studies demonstrating the insensitivity of the test system to environmental and usage variations under conditions of stress

RELATED PEOPLE

Lynn C. Tyler, M.S.
Partner
Indianapolis

P 317-231-7392
F 317-231-7433
lynn.tyler@btlaw.com

RELATED PRACTICE AREAS

Food, Drug and Device Law

- The results of risk evaluation and control including a description of (1) measures that have been implemented to mitigate the risk of errors, and (2) validation and/or verification studies demonstrating the ability of failure alert, fail-safe mechanisms, and other control measures that have been incorporated into the device to mitigate the risk of errors, even under conditions of stress
- A description of the design and results of studies conducted to demonstrate that the device has an insignificant risk of erroneous result in the hands of the intended user
- Proposed labeling with instructions for use consistent with a device that is “simple”

The dual guidance “describes study designs for generating data that may support both 510(k) clearance and CLIA waiver.” It notes that although a 510(k) and a CLIA waiver application each include separate elements not required in the other, both submissions generally include comparison and reproducibility studies. The FDA has established a “dual submission” pathway to review both a 510(k) and CLIA Waiver by Application within a single submission, with a reduced overall review time compared to separate, sequential submissions. The dual guidance provides recommendations for designing a single set of comparison and reproducibility studies, such that the data generated will support both 510(k) clearance and CLIA waiver.

The dual guidance also discusses the contents of a dual submission for 510(k) clearance and a CLIA waiver. In general, it suggests a dual submission should contain the same information as a complete 510(k) and CLIA Waiver by Application, except a single set of comparison and reproducibility studies may be used to support both.

In addition, a dual submission should also include:

- The results of flex studies demonstrating insensitivity of the test system to environmental and usage variations under conditions of stress
- A description of the design and results of analytical studies of the device conducted at an internal site including, but not limited to analytical sensitivity, measuring interval, analytical specificity, linearity, precision, carry-over, reagent stability, and sample stability
- A description of the study design and results of comparison studies conducted to demonstrate that the device has an insignificant risk of an erroneous result when performed by untrained operators
- A description of the study design and results of reproducibility studies of the device performed by untrained operators
- Most IVD 510(k) submissions do not include a clinical performance study; however for some devices, a clinical performance study may be needed for either a 510(k) or Dual Submission

As always, the FDA's guidance documents do not establish legally enforceable responsibilities, but rather describe the FDA's current thinking on a topic.

For more information, please contact the Barnes & Thornburg attorney with whom you work or Lynn Tyler, the chair of the firm's Food, Drug and Device Practice Group, at 317-231-7392 or lynn.tyler@btlaw.com.