De Novo Process

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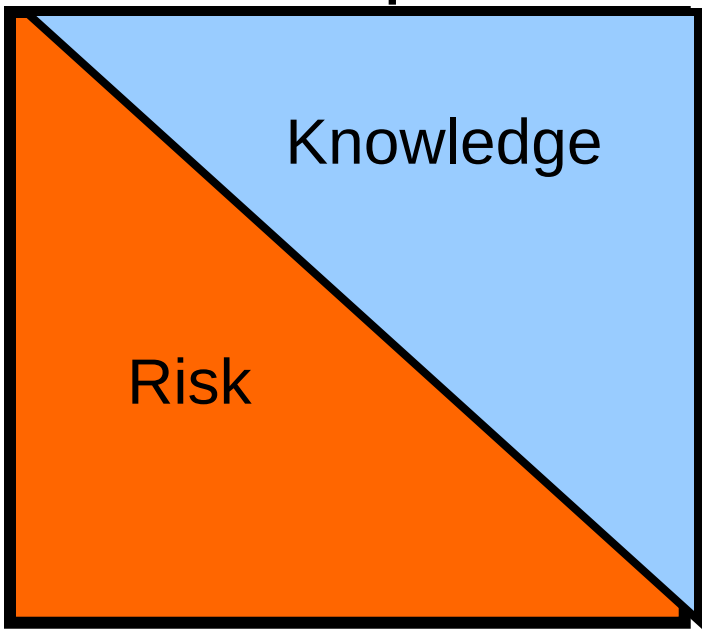
Novel Device – 510k or PMA?

- Is a DeNovo submission appropriate for my device?
- DeNovo submissions are for novel or “first-of-a-kind” devices

How are IVD Devices Classified?

- Regulatory path determined using a risk-based approach
- Classification (I, II, or III) depends on risk



Risk is Dependent Upon Intended Use

- Risk (and subsequently classification and submission type) is inherently tied to Intended Use of a device.

Risk is Dependent Upon Intended Use

- Level of FDA review and type of studies requested generally depend on the Intended Use claims; not always on type of technology or assay

- Prostate-specific antigen (PSA) testing with an indication for
- - "aid in detection of prostate cancer" (PMA)
- - "monitoring prostate cancer patients for disease progress" (510(k))

Use Established IVD Devices as a Reference

- Search our Classification Database to view classification and required submission type of devices similar to yours:

- http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpcd/classification.cfm

Use Established IVD Devices as a Reference

- Search our PMA and 510k Databases to compare your device claims to established intended use claims:

- http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPMA/pma.cfm?IVDProducts=on

- http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPMN/pmn.cfm?IVDProducts=on

Is My Device First-of-a-kind?

- Can the device be placed under existing regulations?
- Devices with novel technologies can often fit into the existing regulatory framework

Determining Classification with FDA

- 513g – Official request for classification of a currently unclassified device

- Pre-IDE submission – Informal interactive process allowing early assessment of device class, and least burdensome regulatory route to approved product

Understanding DeNovo

Before FDA Modernization Act:

- **513 (f)(1) of F, D, & C Act automatically classifies devices that were not in commercial distribution prior to May 28, 1976 into Class III, requiring a pre-market approval (PMA)**

Understanding DeNovo

FDA Modernization Act of 1997:

- **Provides a new mechanism for classifying new devices for which there is no predicate device**
- **Allows an automatic class III designation to be evaluated and overturned**
- **We call this mechanism the De Novo process**

FDA Modernization Act of 1997 (FDAMA) - New Section 513(f)(2) of the F, D, & C Act. Amended November 21,1997

The De Novo process

- A classification process
- Involves a special premarket submission
- DeNovo 510k similar to traditional 510k
- Appropriateness is determined on a case by case basis and is always risk based

De Novo candidates

- Lower risk IVD's for which there is no predicate
- Ancillary to other well-accepted methods for diagnosing a condition
- Discuss with FDA first before you begin the process

Not a candidate

- Not for high risk IVD's
- Unable to determine ways to manage risk
- There is already a predicate device
- De novo process cannot be used to reclassify a device that is already in Class III

To find other DeNovo devices

- Search Federal Register (FR)
- Search 510(k) Database (through OIVD website)
  http://www.fda.gov/cdrh/oivd/index.html
  - Under “type” select: “Evaluation of Automatic Class III Designation”
  - Under “panel” select Chemistry, Immunology, etc.

Benefits of De Novo

- Allows a company to submit a 510(k) for a new IVD that would otherwise require a PMA application
- MAY enable the manufacturer to get to market sooner

Advantages of 510(k) submission

- PMA application may be more complex than 510(k)
- PMA review and approval may take more time than 510(k) review
- No post market annual reports or PMA supplements for 510(k)
- Cost

De Novo Process Overview

- FDA and sponsor discuss possibility of de novo application informally through a teleconference or Pre-IDE.
- De Novo candidates are submitted to the FDA as 510(k) applications.
- FDA reviews the 510(k) application.

De Novo Process Overview Cont…

- The 510(k) application will result in an NSE (not substantially equivalent) letter (because of lack of predicate device).
- Within 30 days of receipt of the NSE letter, the sponsor sends a petition requesting classification of the new device.

De Novo language from NSE letter:

The Food and Drug Administration Modernization Act of 1997 (FDAMA), in section 207, deals with the Evaluation of Automatic Class III Designation. Under this section a manufacturer, whose device is found to be not substantially equivalent to a predicate device, can request FDA to make a risk-based classification for their device. I believe that based on the review of your device, **it may be a candidate for Evaluation of Automatic Class III Designation**. Therefore, you may wish to make such a request of this agency.

Sponsor's classification request should include:

- Cover sheet identifying the submission as "Request for Evaluation of Automatic Class III Designation"
- 510(k) number on the NSE letter
- Statement of cross reference to the information in the 510(k)

Classification request should include (cont.):

- Risk/benefit analysis
- Classification (your recommendation based on risk analysis)
- Discussion of proposed controls that would be needed to assure the safety and effectiveness of the device

Purpose of controls

- Tools to manage risk
- Give assurance that risk posed by the device is reasonably low

Examples of General Controls for Class I devices

Regulations that:

- Requires registration and listing
- Prohibit adulterated or misbranded devices
- Restrict sale and distribution or use
- Govern good manufacturing practices
- Provide for notification of risks and of repair, replacement, or refund

Examples of Class II Special Controls

If general controls are inadequate, then one or more Class II Special Controls are also needed:

- Guidance Document
- Performance standards
- Device labeling
- Postmarket surveillance/data

Class II Special Controls Guidance Documents (SCGD)

- Can submit guidance suggestions with 510(k) submissions or at any time to FDA – recommended
- FDA follows good guidance practice (GGP)

Once FDA Receives the Classification Petition

FDA has 60 days to:

- Review the request
- Evaluate the risk
- Identify applicable controls
- Write Special Controls Guidance Document
- Classify the device
- Write the Approval Order
- Write FR notice of availability of SCGD

FDA final action

- Signed Approval Order classifying the device (Class I, II, or III)
- New device can be marketed
- 30 days after final, Approval Order published in FR

Summary of FDA's review

- De novo confirmation
- Identifies deficiencies and ensures they are addressed
- New product code identified
- Special Controls Guidance Document (SCGD) prepared with input from sponsor.
- NSE letter
- Approval order

De Novo Responsibilities for Sponsor:

- Sponsor is responsible for providing information on risk and clinical utility to support a class II designation
- DeNovo 510k application
- Draft of Special Controls Guidance (optional)
- Within 30 days of receipt of NSE letter sponsor must send in the petition requesting risk-based classification of the device

Advice

- Talk with FDA early in the process
- Utilize resources on OIVD web site
- Review available guidance documents
- Submit SCGD recommendations to FDA

Resources for De Novo

- Guidance document “New Section 513(f)(2) - Evaluation of Automatic Class III Designation” (Feb 19, 1998): http://www.fda.gov/cdrh/ode/g98-1.html

- De Novo Classification for In Vitro Diagnostic (IVD) Devices (questions and answers):

  http://www.amdm.org/AMDM/051502-DeNovo.html

OIVD Website Resources

http://www.fda.gov/cdrh/oivd/index.html

- Guidance documents
- Device advice
- 510(k) database
- OIVD phone and e-mail list