Updating the rules for conducting medical device studies in Spain

Instructions of the Spanish Agency for Medicinal Products and Medical Devices (AEMPS) for the conduct of clinical investigations with medical devices in Spain, dated 30 January 2023

The AEMPS has recently issued guidelines clarifying the requirements applicable to clinical research of medical devices conducted in Spain. The guidelines provide practical information on the aspects regulated by the Regulation (EU) 2017/745 on medical devices. In addition, they provide a higher level of detail on all matters that the regulation allows to be developed at national level. In Spain, this will be done through the currently underway Royal Decree on Medical Devices. Essentially, the document mirrors those issued by the AEMPS for the conduct of clinical trials and observational studies of medicinal products. As in those cases, it is expected that these guidelines will be updated over time. Below we highlight some of the key points that we consider particularly relevant.

Types of research

The guidelines distinguish between different types of research with medical devices.

If the research involves medical devices without CE marking, the sponsor must have: (i) an authorisation from the AEMPS; (ii) a favourable opinion from an Ethics Committee for Research on Medicinal Products (CEIm), which will be unique and binding on all the centres involved in the study; and (iii) the agreement of the management of each centre, which is usually obtained when the relevant contract is signed. The same requirements apply if the device is CE marked but some aspect is being evaluated outside the manufacturer's intended purpose.

On the other hand, if the medical device under investigation is CE marked and used in accordance with its instructions for use and within its intended purpose, the same requirements apply, with the exception of authorisation by the AEMPS. However, if patients are to be subjected to additional, invasive or burdensome procedures in addition to those used under normal conditions of use, the study must be notified to the AEMPS.

Finally, if the research is conducted with a medical device, without a CE marking or with a CE marking but outside its intended purpose, even if the sponsor's intention is not to use the research to assess the product's conformity for obtaining the CE marking, the sponsor must consult the AEMPS on the procedure to be followed.

Authorisation procedure

In cases where AEMPS approval is mandatory, the sponsor must submit several documents. The most important documents are: (i) the investigator's manual, which contains clinical and non-clinical information on the product and on any medicinal substances, blood derivatives or cell or tissue-based products that may be incorporated in the medical device; and (ii) the clinical research protocol, similar to the clinical trial protocol for medicinal products, with information on the justification, objectives, design and methodology of the research, as well as its monitoring, conduct and registration. The AEMPS also recommends that the most up-to-date information on the regulatory status of the product in other countries be provided. Once all the documents have been submitted, the AEMPS has a period

of 45 calendar days to authorise the study, if necessary, with the possibility of extending this period by a further 20 days to request expert opinions, without prejudice to possible "clock stops" for the correction of deficiencies or the submission of additional documents.

Manufacture and import

According to the AEMPS, if the manufacturing company is located in Spain, it is not necessary to have a prior operating licence to manufacture devices intended for clinical research, although it is necessary to ensure that they have been properly manufactured. On the other hand, an import licence is not required for a company importing medical devices for use in clinical research in Spain.

The promoter and other involved parties

As in the case of trials with medicinal products, if the sponsor is not established in an EU Member State, the sponsor must appoint a representative established in an EU Member State. In all cases, the sponsor must appoint a monitor who is independent of the trial site to ensure that the trial is conducted in accordance with the protocol, good clinical practice, and applicable regulations. In addition, if the sponsor is not the device manufacturer, the manufacturer's contact information must be provided.

Other requirements

Documents related to the study must be in Spanish. However, the clinical research protocol and investigator's plan may be accepted in English unless otherwise specified by the CEIm. The AEMPS always reserves the right to require a translation into Spanish.

In the case of research with devices without a CE marking, or devices with a CE marking but outside its intended purpose, mechanisms should be put in place to ensure that patients are compensated for any harm that may result from their participation in the research, either in the form of insurance, a guarantee, or a similar mechanism, equivalent in purpose and commensurate with the nature and extent of the risk.

The documents constituting the master file of a research shall be kept for at least 10 years after the investigation has been completed or, if the device is subsequently placed on the market, for at least 10 years after the last unit of the device has been placed on the market. In the case of implantable devices, the period shall be at least 15 years.

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