Planned Emergency Research

*Exception from Informed Consent Requirements*

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A Presentation for IRB Members
• The Food and Drug Administration (FDA) and the Department of Health and Human Services (HHS) permit “planned emergency research” as long as Institutional Review Board (IRB) approval and extensive community consultation have occurred. [21 CFR 50.24] (OHRP Guidance 97-01)

• Persons with life-threatening conditions who can neither give informed consent nor refuse enrollment are a vulnerable population. This lack of autonomy and inability of subjects to give informed consent requires additional protective procedures in the review, approval, and operation of this research. The exception from the informed consent requirement permitted by the rule is conditional upon documented findings by the IRB.
Exception from Informed Consent
Requirements for Emergency Research

FDA 21.CFR 50.24

The IRB must determine that ...

the human subjects are in a life-threatening situation,
available treatments are unproven or unsatisfactory, and
the collection of valid scientific evidence, which may
include evidence obtained through randomized placebo-
controlled investigations, is necessary to determine the
safety and effectiveness of particular interventions.
The IRB must determine that...

obtaining informed consent is not feasible because:

(i) The subjects will not be able to give their informed consent as a result of their medical condition;

(ii) The intervention under investigation must be administered before consent from the subjects' legally authorized representatives is feasible; and

(iii) There is no reasonable way to identify prospectively the individuals likely to become eligible for participation in the clinical investigation.
The IRB must determine that participation in the research holds out the prospect of direct benefit to the subjects because:

(i) Subjects are facing a life-threatening situation that necessitates intervention;

(ii) Appropriate animal and other preclinical studies have been conducted, and the information derived from those studies and related evidence support the potential for the intervention to provide a direct benefit to the individual subjects; and

(iii) Risks associated with the investigation are reasonable in relation to what is known about the medical condition of the potential class of subjects, the risks and benefits of standard therapy, if any, and what is known about the risks and benefits of the proposed intervention or activity.
The IRB must determine that...

- the clinical investigation could not practicably be carried out without the waiver.

- the proposed investigational plan defines the length of the potential therapeutic window based on scientific evidence, and the investigator has committed to attempting to contact a legally authorized representative for each subject within that window of time and, if feasible, to asking the legally authorized representative contacted for consent within that window rather than proceeding without consent. The investigator will summarize efforts made to contact legally authorized representatives and make this information available to the IRB at the time of continuing review.
FDA 21.CFR 50.24

The IRB should...

• review and approve the informed consent procedures and determine that the informed consent document is consistent with Sec. 50.25. These procedures and the informed consent document are to be used with subjects or their legally authorized representatives in situations where use of such procedures and documents is feasible.

• review and approve procedures and information to be used when providing an opportunity for a family member to object to a subject's participation in the clinical investigation consistent with paragraph (a)(7)(v) below.
FDA 21.CFR 50.24

- **The IRB should ensure** that additional protections of the rights and welfare of the subjects will be provided, including, at least:
  - Consultation (including, where appropriate, consultation carried out by the IRB) with representatives of the communities in which the clinical investigation will be conducted and from which the subjects will be drawn;
  - Public disclosure to the communities in which the clinical investigation will be conducted and from which the subjects will be drawn, prior to initiation of the clinical investigation, of plans for the investigation and its risks and expected benefits;
  - Public disclosure of sufficient information following completion of the clinical investigation to apprise the community and researchers of the study, including the demographic characteristics of the research population, and its results;
The IRB should ensure that additional protections of the rights and welfare of the subjects will be provided, including, at least:

- Establishment of an independent data monitoring committee to exercise oversight of the clinical investigation; and

- If obtaining informed consent is not feasible and a legally authorized representative is not reasonably available, the investigator has committed, if feasible, to attempting to contact within the therapeutic window the subject's family member who is not a legally authorized representative, and asking whether he or she objects to the subject's participation in the clinical investigation. The investigator will summarize efforts made to contact family members and make this information available to the IRB at the time of continuing review.
Initial Community Consultation

• Who should be consulted?
  – Community where research will take place
  – Community from which subjects will be drawn
• When? Prior to initiation of the study
• Why?
  – Allows the community(ies) to discuss the research with the investigators, and to provide feedback to the IRB
• Discussions with and soliciting opinions from the community/ies in which the study will take place and from which the study subjects will be drawn.

• May not always be the same; when they are not the same, both communities should be consulted.

• An IRB member or representative should attend these discussions so that they have first-hand knowledge of community reaction.
Community Consultation

• Rule doesn’t dictate how or what to do
  – Communities differ
    • Size
    • Homogeneity of population
    • Culture
    • Languages

• Effective consultation
  – Multifaceted
  – Informative to IRBs and communities
  – Continuing
Community Consultation

• Need to determine the demographics of the potential subject population
  – review demographics of patients previously treated for the condition under study

• Need to determine the demographics of the community in which the research will be conducted
  – geographic region
• Go to “Gatekeepers” to groups to develop plan for consultation

• Elicit interest: newspaper articles, radio talk shows, community meetings

• Address skepticism/special concerns

• Use existing (better attendance) v. special (folks with strong interest) meetings
Consultation - 2-way Communication

• Inform community
  – no informed consent for most subjects
  – risks and potential benefits
  – right to refuse and how to be excluded

• Community informs IRB
  – support for, or concerns about, the research activity

• Exchange of Information
Community Consultation

• IRB must hear/learn of concerns

• IRB may...
  – approve study or
  – change study (e.g., limit enrollment) or
  – decide it is inappropriate
  – decide more consultation is needed

• It IS NOT intended to substitute for consent
  (i.e., the community does not vote yea or nay)
• **Who?**
  – Same communities (plus research community)

• **When and What?**
  – Before initiation of the study
    • Study plans (not usually disclosed by sponsor)
    • Informed consent won’t be obtained from most subjects
  – After study is completed
    • Comprehensive summary data sufficient to apprise the communities and researchers of the study results
    • Demographic information about the research population
Consultation & Disclosure

• How much is enough?
  – One town meeting?
  – A legal notice in the local paper?
  – A survey
  – Informing hospital staff?
  – An ad with a phone number for the public to call for more information?
Any Questions?

Contact HRP Staff!