

When reviewing planned emergency research, the IRB applies federal regulations requiring additional protections for vulnerable participants experiencing life-threatening conditions.

### 1.0 Applicability.

Research involving evaluation of experimental interventions, drugs, or devices on participants experiencing life-threatening conditions is applicable to this policy. Several examples include testing of:

- concentrated saline to stabilize blood pressure in trauma patients
- the timing of providing cardio-pulmonary resuscitation (CPR)
- a breathing-tube device for cardiac arrest victims
- a treatment to stabilize patients in shock.

Such studies involve participants who are unlikely to provide consent due to their medical condition; a legally authorized representative (LAR) may also be unavailable to provide consent on their behalf. This policy applies to research involving adults or children, but does not apply to research involving prisoners, pregnant women, fetuses, or human *in vitro* fertilization.

### 2.0 Criteria for IRB approval.

At a convened meeting, the IRB considers required criteria for approval, as outlined in SOP 7.2 *Criteria for IRB Approval*, including a process for obtaining and documenting informed consent, to be used where feasible. Where research is applicable to FDA regulations, refer to SOP 11.6 *FDA-Regulated Research*. Also, the IRB must find and document additional determinations (with concurrence of a licensed physician member or consultant) to approve an emergency research consent waiver.

#### 2.1 Necessity for emergency setting.

The IRB must find and document that:

- subjects are in a life-threatening situation
- available treatments are unproven or unsatisfactory
- collection of valid scientific evidence is necessary to determine the safety and effectiveness of particular interventions.

#### 2.2 Consent not likely attainable.

The IRB must find and document that informed consent is not likely to be feasible because:

- subjects will be unable to provide their consent because of their medical condition
- the experimental intervention must be administered before consent is feasible, and

- there is no reasonable way to prospectively identify individuals likely to be eligible for participation.

### 2.3 Prospect of direct benefit.

The IRB must find and document that participation holds out the prospect of direct benefit to subjects because:

- subjects are facing a life-threatening situation that requires intervention
- prior animal and pre-clinical studies show direct benefits are possible
- risks associated with the intervention are reasonable based on the medical condition of potential participants, the risk and benefits of standard therapy, and the known risks and benefits of the proposed intervention.

### 2.4 Research not practicable without waiver.

The IRB must find and document that the research could not practicably be carried out without the waiver of the requirement to obtain informed consent. For example, it would not be practicable to restrict recruitment to consenting subjects when doing so would hamper the scientific validity or unduly delay the research.

### 2.5 LAR contact within therapeutic window.

The IRB must find and document that the protocol defines the length of the potential therapeutic window, based on scientific evidence. In addition, the investigator must have a plan to attempt contact with a potential participant's LAR to obtain their consent within this time, rather than proceeding without consent. In the continuing review report, the investigator summarizes all attempts to contact LARs.

### 2.6 Approval of consent process.

The IRB must review and approve a process and document to obtain informed consent, to be utilized whenever feasible. In addition, the IRB must review and approve procedures for providing a family member an opportunity to object to a relative's participation in planned emergency research.

## 3.0 Additional protections.

The IRB must also find and document that additional protections will be provided, including at least the following.

### 3.1 Community consultation.

Prior to initiation of the research, members of the community who are likely to become participants are consulted. Consultation may also be carried out by the IRB, where appropriate, and includes an opportunity for the community to understand the proposed research, its risks and benefits, and discuss the project with investigators.

### 3.2 Public disclosure.

Prior to initiation of the study, information about the research and its risks and benefits are publicly disclosed to members of the community likely to become participants. The IRB may determine the information to be disclosed, which may include that found in the consent form or protocol, to allow the community an opportunity to raise concerns and objections. Following completion of the study,

results of the research, including the demographic characteristics of the participants, are also disclosed to the community in which participants were drawn.

### 3.3 Data monitoring.

To provide oversight of the study, an independent data monitoring committee is formed to review study data on an ongoing basis. The role of the committee is to ensure that continuation of the study remains justified on the basis of safety and scientific issues. When the data indicate that risks are higher than anticipated, the benefits do not justify the risks, or the benefits of the experimental intervention have been established, the committee may recommend the study be modified or halted. Refer to SOP 8.3 *Data Safety Monitoring* for more information.

### 3.4 Notification of family members.

The investigator must have a plan in place to attempt to contact family member(s) when neither the subject, nor their LAR is able to provide consent. The family member must be provided an opportunity to object to the subject's participation. The investigator will summarize all attempts to contact family members and provide this information to the IRB at the time of continuing review.

### 3.5 Notification of participants.

The investigator must have a plan in place to inform, at the earliest feasible opportunity, the participant, or if they remain incapacitated, their LAR, or a family member of their inclusion in the study, the details of the research as contained in the consent document, and that their participation may be discontinued at any time without penalty or loss of benefits to which they are otherwise entitled. If only an LAR or family member has been previously notified, the investigator must also attempt to inform the subject, should their condition improve.

## 4.0 FDA review.

Planned emergency research that is applicable to FDA regulations must be conducted under an investigational new drug application (IND) or investigational device exemption (IDE) that identifies the inclusion of subjects unable to provide consent. Where an IND or IDE already exists, a separate application is required to allow adequate FDA review of the study. Refer to SOP 11.6 *FDA-Regulated Research* for more information.

## **DEFINITIONS:**

Clinical investigation (drugs and biologics): any experiment in which a drug is administered to, dispensed to, or used involving, one or more human subjects. An experiment is considered to be any use of a drug except for the use of a marketed drug in medical practice. (Synonymous with the terms 'research', 'clinical research', 'clinical study', and 'study')

Clinical investigation (medical devices): an investigation or research involving one or more human subjects to determine the safety and effectiveness of a device. (Synonymous with the terms 'research', 'clinical research', 'clinical study', and 'study')

Clinical trial: any research study that prospectively assigns human participants or groups of humans to one or more health-related interventions to evaluate the effects on health outcomes. Health-related interventions include any intervention used to modify a biomedical or health-related outcome (for example, drugs, surgical procedures, devices, behavioral treatments, dietary interventions, and process-of-care changes). Health outcomes include any biomedical or health-related measures obtained in patients or participants, including pharmacokinetic measures and adverse events. (as defined by the World Health Organization)

Emergency research: research performed to evaluate experimental interventions for patients in life-threatening situations.

Family member: any one of the following legally competent persons: spouses, parents, children (including adopted children), brothers, sisters, and spouses of brothers and sisters, any individual related by blood or affinity whose close association with the subject is the equivalent of a family relationship.

Human subject (FDA): an individual who is or becomes a participant in research, either as a recipient of a test article, or as a control; also includes someone on whom, or on whose specimen, an investigational device is used, or who participates as a control.

Investigator: an individual who actually conducts a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to, or used involving , a subject, or in the event of an investigation conducted by a team, is the responsible leader of that team.

Legally authorized representative (LAR): an individual authorized by a judicial body, or other appropriate body to give consent on behalf of a prospective subject to the subject's participation in research. May include: a health care agent (named as a durable power for health care decision maker while the subject had competency), or a court-appointed guardian.

#### **REFERENCES:**

[45 CFR 46.116](#) General requirements for informed consent

[45 CFR 46.111](#) and [21 CFR 56.111](#) Criteria for IRB approval of research

[21 CFR 50.24](#) Exception from informed consent for emergency research

FDA Guidance [Exception from Informed Consent for Studies performed in Emergency Settings](#)

OHRP Guidance [Informed Consent Requirements in Emergency Research Definition of 'Clinical Trial'](#), World Health Organization (WHO)

#### **RELATED FORMS:**

IRB Protocol Form

Planned Emergency Research Form

#### **RELATED HRPP SECTIONS AND STANDARD OPERATING PROCEDURES:**

2.1 Human Subjects Research

8.3 Data Safety Monitoring

Section 9 – Requirements for Informed Consent

11.6 Review of FDA-Regulated Research