Planned Emergency Research

Exception from Informed Consent Requirements

IRB Training

October 22, 2015

Federal Regulations

- FDA & HHS permit ’planned emergency research’ as long as IRB approval and extensive community Consultation have occurred.
- 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.

[21 CFR 50.24] (OHRP Guidance 97-01)

Exception from Informed Consent Requirements for Emergency Research

The IRB must determine that …

- Human subjects are in a life-threatening situation
- Available treatments are unproven or unsatisfactory
- 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.

FDA 21.CFR 50.24

Exception from Informed Consent Requirements for Emergency Research

The IRB must determine that obtaining informed consent is not feasible because:

- The subjects will not be able to give their informed consent as a result of their medical condition;
- The intervention under investigation must be administered before consent from the subjects' legally authorized representatives is feasible; and
- There is no reasonable way to identify prospectively the individuals likely to become eligible for participation in the clinical investigation.

FDA 21.CFR 50.24

Exception from Informed Consent Requirements for Emergency Research

The IRB must determine that participation in the research holds out the prospect of direct benefit to the subjects because:

- Subjects are facing a life-threatening situation that necessitates intervention;
- 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
- 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.

Exception from Informed Consent Requirements for Emergency Research

The IRB must determine that the clinical investigation could not practicably be carried out without the waiver.

- Proposed investigational plan defines the length of the potential therapeutic window based on scientific evidence
- 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.

Exception from Informed Consent Requirements for Emergency Research

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.

Exception from Informed Consent Requirements for Emergency Research

- **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;

Exception from Informed Consent Requirements for Emergency Research

- **The IRB should ensure that additional protections of the rights and welfare of the subjects will be provided, including, at least:** *(continued)*
  - 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 communities to discuss the research with the investigators, and to provide feedback to the IRB

Community Consultation

- Discussions with, and soliciting opinions from the communities 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

Determine the demographics:

- Potential subject population
- Community in which the research will be conducted

Community Consultation

- Go to key community members as you develop plan for consultation
- Elicit interest: communication campaign
- Address skepticism/special concerns
- Use existing v. special groups/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
- How much is enough?

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
- Does not substitute for consent

Public Disclosure

- 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 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

Questions?