

ACTIVITIES REQUIRING IRB REVIEW

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THIS POLICY PERTAINS TO:			THE ACTIVITIES OF THE IRB OPERATING UNDER THE AUTHORITY OF THE UNIVERSITY OF NORTH DAKOTA				
RESPONSIBILITY FOR EXECUTING POLICY:		VICE PRESIDENT FOR RESEARCH AND ECONOMIC DEVELOPMENT, ASSOCIATE VICE PRESIDENT FOR RESEARCH AND ECONOMIC DEVELOPMENT, IRB CHAIRPERSON					
LAST REVIEWED ON:		/ /		RESULTS:	REVISED		
APPROVAL AUTHORITY:		Associate Vice President for Research and Economic Development					
APPROVED BY:					DATE:		3/1/14

1. POLICY

All research involving human subjects (as defined below) and all other activities which, even in part, involve such research, regardless of sponsorship, must be reviewed and approved by the University of North Dakota IRB. No intervention or interaction with human subjects in research, including recruitment, may begin until the IRB has reviewed and approved the research protocol. Specific determinations as to the definition of research or human subject, and their implications for the jurisdiction of the IRB under the University of North Dakota policy, are determined by the IRB.

The purpose of the IRB is to protect the rights and welfare of human subjects participating in biomedical and behavioral research conducted at the University of North Dakota. The IRB reviews and oversees such research to assure that it meets ethical principals and that it complies with federal regulations that pertain to human subject protection at 45 CFR 46 and 21 CFR 50 and 56, and other pertinent regulations, guidance, state and local laws.

2. SPECIFIC POLICY

2.1 Applicable Regulations and Definitions

The Institutional Review Board at the University of North Dakota reviews and approves research in accordance with the Department of Health and Human Services (DHHS) regulations at 45 CFR 46. For studies involving products regulated by the Food and Drug Administration (FDA), the IRB complies with the requirements set forth in:

- 21 CFR 50 Protection of Human Subjects
- 21 CFR 56 Institutional Review Boards
- 21 CFR 312 Investigational New Drug Application
- 21 CFR 812 Investigational Device Exemptions

2.1.1 Definitions:

Clinical Investigation: Any experiment that involves a test article and one or more human subjects as defined by FDA regulations and either of the following applies:

- 1) meets the prior submission requirements of FDA laws and regulations¹, or
- 2) prior submission is not required but the experiment's results "are intended to be later submitted to, or held for inspection by, the Food and Drug Administration as part of an application for a research or marketing permit."

Food and Drug Administration (FDA): The office responsible for implementing regulations governing the use of investigational drugs, biologics, devices and radiological procedures including radioactive drugs in clinical investigations with humans.

Human Subject (as defined by DHHS regulations): A living individual about whom an Investigator (whether professional or student) conducting research obtains:

- 1) data through intervention or interaction with an individual, or
- 2) identifiable private information.

Intervention: Includes both physical procedures by which data are gathered (e.g., venipuncture) and manipulations of the subjects' environment that are performed for research purposes.

Interaction: Includes communication or interpersonal contact with a subject or their private identifiable information.

Private Information: Includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the Investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects. This may include identifiable private information obtained from a primary subject about a third party.

The regulations extend to the use of human organs, tissue, and body fluids from individually identifiable human subjects. The use of autopsy materials is governed by applicable state and local law and is not directly regulated by 45 CFR 46.

Human Subject (as defined by FDA regulations): An individual who is or becomes a participant in research either as a recipient of a test article or as a control. A subject may be either a healthy individual or a patient. In the case of research involving medical devices, a human subject is a human who participates in an investigation either as an individual on whom or on whose specimen an investigational device is used, or as a control. A subject may be in normal health or may have a medical condition or disease. *(Note: Under FDA regulations humans that provided tissue specimens used to test the safety or efficacy of a device are considered human subjects. This is true even if the specimens have no identifying data.)*

Test article: Any drug (including a biological product for human use), medical device for human use, human food additive, color additive, electronic product, or any other article subject to FDA regulation.

¹ Activities that meet the prior submission requirements for FDA include: (1) any use of a drug (approved or unapproved) except for the use of a marketed drug in the course of medical practice [21 CFR § 312.3(b)]; and (2) activities to determine the safety or effectiveness of a medical device. [21 CFR 812.2(a)].

Office for Human Research Protections (OHRP): The office under the Department of Health and Human Services responsible for implementing DHHS regulations (45 CFR 46) governing biomedical and behavioral/social science research involving human subjects.

Research (as defined by DHHS regulations): Any systematic investigation (including research development, testing and evaluation) designed to develop or contribute to generalizable knowledge.

Systematic: Activities must be systematic to be considered research. Activities that involve predetermined methods for answering a specific question, testing hypotheses or theories are systematic and might include interviews, program evaluations, and observational studies. Activities that are not normally systematic are training activities where an individual is trained to perform a certain technique or task or to teach proficiency in using a certain method.

Generalizable Knowledge: Activities must contribute to generalizable knowledge or be intended to extend beyond a department or internal use. Many thesis, dissertation or independent study projects are intended to extend beyond the graduate's department and therefore are considered research. Activities that are typically not generalizable are course evaluations that cannot be generalized to others, and quality assurance type activities that are only intended to improve the performance of a unit, division, or department.

Human Subjects Research: Any activity that either (1) meets the DHHS definition of "research" that involves humans as subjects as defined by DHHS regulations and (2) any clinical investigation as defined by FDA regulations that involves human subjects as defined by FDA regulations..

2.2 Determining if an activity is considered Research Involving Humans

The responsibility for determining whether an activity constitutes human subjects research rests with the Investigator. Since the University will hold them responsible if the determination is not correct, Investigators are urged to request a confirmation that an activity does not constitute human subjects research from the IRB.

To determine if an activity is considered research, the IRB first follows the DHHS two-step approach. This two step approach includes first deciding whether the activity is research as defined by DHHS regulations, and if so, whether it involves human subjects as defined by DHHS regulations. Then the IRB follows a two-step approach to determine whether the activity is a clinical investigation as defined by FDA regulations, and if so, whether it involves human subjects as defined by FDA regulations.

2.3 Activities Requiring IRB Review

2.3.1 Clinical Investigation Involving Human Subjects as defined by FDA regulations.

Activities can be considered clinical investigations when they meet any one of the following:

1. Any use of a drug (approved or unapproved) except for the use of a marketed drug in the course of medical practice [21 CFR § 312.3(b)]. Any research in which the

- use of a drug is specified by the protocol and is not left up to the judgment of a physician, it is a clinical investigation. For example, all oncology clinical trials of chemotherapy are clinical investigations even if all drugs are approved drugs.
2. Activities to determine the safety or effectiveness of a medical device. [21 CFR 812.2(a)] For example, the comparison of two diagnostic modalities is a clinical investigation.
 3. Activities where data will be submitted to or held for inspection by FDA. For example, collection of data to support a submission to FDA for a health marketing claim for a cereal product is a clinical investigation.

Several special cases of clinical investigations involving human subjects to be aware of:

1. If a sponsor asks for a retrospective chart review to gather data for historical controls for a group of subjects who received a test article, the study is a clinical investigation involving human subjects as defined by FDA. This is because the historical controls are serving as a control group for subjects on whom the test article was used. (Note that because such a study is FDA-regulated, it cannot be granted an exemption and consent may not be waived using the DHHS criteria.)
2. If a sponsor asks for tissue specimens to test a device and plans to submit the data to FDA to support a marketing application for the device, the study is a clinical investigation involving human subjects as defined by FDA. (Note that because such a study is FDA-regulated, it cannot be granted an exemption and consent may not be waived using the DHHS criteria.)

To prevent problems with not identifying FDA-regulated research, it is important with commercially sponsored research involving surveys, interviews, educational tests, or existing data, documents, or specimens, to ask the sponsor whether the data will be submitted to or held for inspection by FDA.

2.3.2 Standard Diagnostic or Therapeutic Procedures

The collection of data about a series of established and accepted diagnostic, therapeutic procedures, or instructional methods for dissemination or contribution to generalizable knowledge.

An alteration in patient care or assignment for research purposes.

2.3.3 Innovative Procedures, Treatment, or Instructional Methods

A systematic investigation of innovations in diagnostic, therapeutic procedure, or instructional method in multiple participants in order to compare to standard procedure. The investigation is designed to test a hypothesis, permit conclusions to be drawn, and thereby develop or contribute to generalizable knowledge.

2.3.4 Repositories (e.g., data, specimen, etc.)

Preliminary activities typically designed to help the Investigator refine data collection procedures. This data is to be included in the publication.

A storage site or mechanism by which identifiable human tissue, blood, genetic material or data are stored or archived for research by multiple Investigators or multiple research projects.

2.3.5 Retrospective Data

Retrospective review of a patient's medical record with the intent to report or publish the summary.

2.3.6 Emergency use of an investigational drug or medical device.

Whenever emergency use of a test article is initiated with prior IRB review and approval, under DHHS regulations the patient may not be considered to be a research participant in a prospectively conceived research study. The data derived from the use of the test article may not be used in a prospectively conceived research study as defined by DHHS regulations. Note that emergency use of a test article is human subject research under the UND definition because it is a clinical investigation that involves a human subject as defined by FDA regulations. The FDA regulations apply, but not the DHHS regulations. Investigators may not invoke emergency use of a test article to get around the requirement for prospective IRB review.

2.3.7 Ethnographic Research

The Investigator or his/her staff will participate, overtly or covertly, in people's daily lives for an extended period of time. They will be watching what happens, listening to what is said, asking questions and collecting data to create a broader understanding of a particular environment, ethnic group, gender, etc.

2.3.8 Internet Research

Online websites are set up for the purposes of collecting data regarding a particular topic. This may include the completion of questionnaires/surveys, personal data, etc.

2.3.9 Pilot Studies

Activities including those involving only one individual may be subject to the same scrutiny as a full scale research project. Although the data derived from a pilot activity may not be included in the full scale research project, the activity would still need IRB review prior to conducting the activity.

2.3.10 Student-Conducted Research

Student-conducted research activities that meet the definition of research with human subjects and that are conducted by students for a class project or for work toward a degree. These activities include: (i) all master's theses and doctoral dissertations that involve human subjects; and (ii) all projects that involve human subjects for which findings may be published or otherwise disseminated.

2.4 Activities Not Subject to IRB Review

Proposals that lack definite plans for involvement of human subjects will not require IRB review. Additionally, activities such as quality assurance or quality control, or program and fiscal audits generally do not qualify as research. Investigators are urged to obtain documentation from Research Development and Compliance that the activity is not subject to IRB review.

2.4.1 Research Involving the Federal Bureau of Prisons in the Department of Justice

For research conducted within the Federal Bureau of Prisons, implementation of the Federal Bureau of Prisons programmatic or operational initiatives made through pilot projects is not considered to be research.

2.5 Failure to Submit Project for IRB Review

The implications of engaging in activities that qualify as research that is subject to IRB review without obtaining such review are significant. Results from such studies should not be published unless IRB approval was obtained prior to collecting the data. It is also against University of North Dakota policy to use that data to satisfy thesis or dissertation requirements.

If an Investigator begins a project and later finds that the private identifiable data gathered about living individuals could develop or contribute to the existing knowledge base, or that he or she may wish to publish the results, the Investigator should submit a proposal to the IRB for review or a determination of whether the activity is human subject research as soon as possible. If the IRB does not approve the research or determine that the activity is not human subjects research, data collected cannot be used as part of a thesis or dissertation, or the results of the research cannot be published.

3. RESPONSIBILITY

The Vice President for Research and Economic Development is responsible for the oversight of the Research Development and Compliance office, which includes the IRB.

The Associate Vice President for Research and Economic Development is responsible for the oversight of the operations of the Research Development and Compliance office.

The IRB Coordinator is responsible for the oversight of the daily operations of the IRB.

The Associate Vice President for Research and Economic Development, IRB Coordinator, IRB Chairperson, and IRB Secretary are responsible for determining whether research activities require IRB review.

The IRB Secretary has the responsibility of the daily operations of the IRB.

4. APPLICABLE REGULATIONS AND GUIDELINES

45 Part 46

21 CFR 50

21 CFR 56

21 CFR 312

21 CFR 812

[Guidance on Research Involving Coded Private Information or Biological Specimens](#)

5. ATTACHMENTS

GA 102-A Human Subject Regulations Decision Charts

6. PROCEDURES EMPLOYED TO IMPLEMENT THIS POLICY

Who	Task
<p><i>Associate Vice President for Research and Economic Development, IRB Secretary, IRB Coordinator, IRB Chairperson, IRB Members</i></p>	<p>Make determinations whether research activities require IRB Review by following DHHS two-step approach to defining research involving human participants regulated by DHHS using the “Is it Human Subject Research Flowchart” and then by following FDA two-step approach to defining research involving human participants regulated by FDA considering whether the activity meets the FDA definitions of “clinical investigation” involving “human subjects” as defined by FDA regulations.</p> <p>Provide Investigators with guidance on appropriate IRB Submission requirements</p>
<p><i>IRB Coordinator, IRB Secretary</i></p>	<p>If a project that was determined not to be human subject research was submitted on an IRB application, a letter indicating that this is not human subjects research will be sent to the Investigator.</p> <p>If an Investigator calls into the office seeking assistance determining if a project is considered human subject research, the Associate Vice President for Research and Economic Development, IRB Coordinator, or IRB Secretary will discuss with the Investigator and communicate the decision in person.</p>