ANPRM
Human Subjects
Research Protections
Enhancing Protections for Research Subjects and
Reducing Burden, Delay, and Ambiguity for Investigators
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Agenda
- Where does the ANPRM fit into the process?
- Review of the ANPRM sections:
  - Context of the proposed changes
  - Specific ideas for consideration

The Rule Making Process

NOTE: All comments will be posted without changes to http://www.regulations.gov
Sections of the ANPRM

- Section I: Background information
- Sections II – VIII: Substantive information
- Section IX: Request for information and comments

Section I: Background

- History of the regulations
- Changing research landscape
- 7 concerns identified:
  1. Inadequate calibration of risk to type of review
  2. Inefficiency of multiple IRB review for multisite research
  3. Questions about informed consent form/practice
  4. Change in nature of risks/benefits in research
     a. Genetic information, biospecimens, data
  5. Monitoring and evaluation of current system
  6. All research subjects aren’t being protected
  7. Lack of harmonization among regulations

Sections II-VIII

II. Ensuring risk-based protections
III. Streamlining IRB review of multi-site research
IV. Improving informed consent
V. Strengthening data protections to minimize information risks
VI. Data collection to enhance system oversight
VII. Extension of Federal regulations
VIII. Clarifying and harmonizing regulatory requirements and Agency guidance
Section II: Ensuring Risk-Based Protections

- Goal of the revisions: Ensure that protections are commensurate with the level of risk in the research
- Proposed changes:
  - Establishing mandatory data security and information protection standards
  - Revising the rules for continuing review
  - Revising the regulations regarding expedited review
  - Revising the rules for exempt studies
  - Requiring consent for biospecimens
- Specific proposals addressing the proposed changes:
  - II.A: A new mechanism to protect subjects from informational risk
  - II.B: Calibrating the levels of review to the level of risk

Section II.A: Protecting subjects from informational risks

- Proposed:
  - Mandatory standards for data security and information protection whenever data are collected, generated, stored, or used
  - Level of protection:
    - Calibrated to level of identifiability and
    - Based on HIPAA Privacy Rule standards
  - IRB would not be responsible for assessing adequacy of study’s procedures for protection against informational risks
  - Risk assessment for determining level of review would not include consideration of informational risk

Section II.B: Calibrating the levels of review to the level of risk

1. Full convened IRB review
   a. Maintains requirement that greater than minimal risk research still reviewed by convened IRB
   b. Proposed change:
      - Default of no continuing review when remaining activities are limited to:
        - Data analysis, even with retention of identifiers
        - Collecting follow-up clinical data from procedures that subjects would undergo as part of clinical care for medical problems
2. Revised expedited review
3. Moving away from the concept of Exempt
Section II.B: Calibrating the levels of review to the level of risk

2. Revised expedited review
   a. Eligibility
      • Concern: Current list of expedited review criteria too narrow and too
do
dated
      • Proposed changes:
         ▪ Updating current list of activities
         ▪ Mandating standing Federal panel to periodically review and update
         criteria
   b. Eliminating continuing review
      • Proposed change: Consideration of no continuing review for studies
that qualify for expedited review
      • This would not change required:
         ▪ IRB approval of changes to study (protocol changes)
         ▪ Reporting of unanticipated problems and other required reporting
   c. Streamlining documentation
      • Proposed change: Consideration of templates for protocols and
consent forms designed for use in the most common types of
expedited review studies

Section II.B: Calibrating the levels of review to the level of risk

3. Moving away from the concept of Exempt
   • “Excused” from being required to undergo some form of IRB review
   • Would require:
      ▪ Data security and information protection standards
      ▪ Informed consent in certain situations
   a. Types
      • Concern: Current criteria are not standardly applied and may be too
narrow
      • Proposed changes:
         ▪ Review of current categories and provide clarification so investigators
would easily apply criteria
         ▪ Possible expansion of categories
            ▪ Certain types of social and behavioral research
            ▪ Conducted with competent adults
            ▪ Involving benign interventions beyond those currently in the regulations
(educational tests, surveys, interviews, observations, etc.)
            ▪ Known to have no real risk to subjects
   b. Tracking and auditing
      • Proposed changes:
         ▪ Researchers register excused research (brief form) with
institutional office (not necessarily the IRB)
         ▪ Institutions could choose to review some at the time of
submission, but this is not expected to be the norm
         ▪ Institutions should put in place a means of tracking and
auditing a small number of excused research submissions
Section II.B: Calibrating the levels of review to the level of risk

3. Moving away from the concept of Exempt
   c. Consent rules for Excused research

   - Current policy:
     - Consent is sometimes obtained and is usually oral. No signatures are gathered from subjects.
     - No written consent is required for research with biospecimens if researcher does not have any means of identifying the person.

   - Concerns:
     - Scope of biospecimen research – genetic research, personalized medicine research, etc.
     - Potential for identifiability of biospecimens

   - Proposed changes:
     - For pre-existing biospecimens, written consent required regardless of:
       - Whether collected for research or non-research purposes
       - Identifiability of the biospecimen
     - For pre-existing data:
       - If collected for non-research purposes, written consent only if identifiable
       - If collected for research purposes, written consent required regardless of identifiability

   - What the proposed changes mean:

     - Eliminate the current practice of a reviewer determining exempt status:
       - Not required in the Common Rule
       - Results in delays without added protections

     - New process:
       - Researchers file with institutions or IRB a brief registration form
       - Researchers can begin study immediately after filing
       - Administrative review of forms is discouraged

Section III: Streamlining IRB Review of Multi-site Studies

- Current policies:
  - Each institution engaged in research must have IRB approval, but it does not need to be from a local IRB (i.e., UND can rely on review of another IRB as long as an authorization agreement is in place).
  - Multi-site research is routinely reviewed by multiple IRBs

- Concerns:
  - Unnecessary duplication of efforts without added benefit
  - Delay of research

- Proposed change:
  - Mandate that all domestic sites in a multi-site study rely upon a single IRB as their IRB of record for the study
  - Relevant local issue (investigator competence, site suitability) can be addressed through mechanisms other than local IRB review
  - This change would not relieve any site of its other obligations under the regulations to protect human subjects
  - Local sites could perform an ethical review of proposed research, but this would not be the formal IRB regulatory review
Section IV: Improving Informed Consent

1. Improving consent forms
   - Concerns:
     - Too long
     - Too legalistic
     - Too high a reading level
     - Not informative
   - Considering:
     - Proposing content that must be included on consent form
     - Restricting content that is inappropriate
     - Limiting the length of various sections of the form
     - Proposing how study information should be presented
     - Reducing institutional boilerplate
     - Making available standardized consent form templates

2. Waiver of informed consent or documentation of informed consent in primary data collection
   - Concerns:
     - Too vague and no standard application for waiver among different IRBs
     - Current regulations aren't flexible enough, particularly for international research

3. Strengthening consent protection related to reuse or additional analysis of existing data and biospecimens
   - Concerns:
     - Requirements for informed consent for pre-existing data and biospecimens are confusing
     - Potential and former research subjects' concerns that research is being performed on their biospecimens without consent

Section V: Strengthening Data Protections to Minimize Information Risks

1. Consistently characterizing information with respect to potential for identification
   - Considering:
     - Adapting the HIPAA Privacy Rule standards for:
       - Individually identifiable
       - Limited data set
       - De-identified
     - Categorizing research with biospecimens as research involving identifiable information

2. Standards for data security and information protection
   - Considering:
     - HIPAA data security standards required for identifiable data and limited data
       - Encryption, physical safeguards, audit trails, and access controls
       - Breach notification
     - Data considered de-identified even if investigators see the identifiers but do not record them
     - Periodic random retrospective audits
Section VI: Data Collection to Enhance System Oversight

- Current policies:
  - Different agencies have different reporting requirements for safety data (what to report, when to report, etc.)
  - Lack of inter-agency connectivity that inhibits in-depth analysis and comparisons about the frequency and severity of adverse events
  - Lack of data collection regarding numbers of participants in various areas of research
  - Considering proposals that will simplify and consolidate and not expand information to be reported, including:
    - Standardized, streamlined set of data elements compliant with most reporting requirements
    - Web-based, Federal-wide portal for investigators to submit data electronically for delivery to appropriate agencies
    - Harmonize safety reporting guidance across agencies

Section VII: Extension of Federal Regulations

- Current policy:
  - The Federalwide Assurance (FWA) mandates application of the Common Rule only to certain Federally funded research projects
  - Many institutions, including UND, extend Common Rule protections to all research
  - Extension is not required
  - Considering:
    - Domestic institutions that receive some Federal funding for research with human subjects extend Common Rule protections to all research at their institution

Section VIII: Clarifying & Harmonizing Requirements and Agency Guidance

- Currently:
  - Different laws and regulations pertain to research with human subjects
  - Different guidance from different departments and agencies
  - Considering: ???
What do you think?

Do you understand the proposed changes and how they may affect you as researchers and/or advisors to student researchers?

Do the proposed changes:

- Meet the goals of:
  - Improved effectiveness?
  - Enhanced protections?
  - Provide solutions for some of your biggest problems/concerns?
  - Create new problems?

What did they miss in the ANPRM?

How to submit comments

- For inclusion in UND’s official response, send them to me at michelle.bowles@research.und.edu by the end of the day on Wednesday, October 19, 2011.

- A webpage is currently under development and will be available on the UND IRB website to submit comments, review documents, and watch the presentation.

- To send your own comments directly to the Office for Human Research Protections (OHRP), take the following steps:
  - Label comments with: Docket 02 number 2011–0005
  - Submit electronically through the Federal eRulemaking Portal at http://www.regulations.gov
  - Submit via mail to:
    - Jerry Menikoff, MD, JD
    - OHRP
    - 1101 Wootton Parkway, Suite 200
    - Rockville, MD  20852
  - Deadline to submit directly to the Federal government is Wednesday, October 26, 2011 at 5:00 p.m. Eastern Standard Time

- There are 74 questions throughout the ANPRM. You can respond to the questions themselves or submit general comments.

Note: All comments will be posted on a publicly available Federal website and will not be anonymous!