An Expanded View of Informed Consent Requirements when Conducting Human Subjects Research

Dorean Flores, CIP  and Meredith Burcyk CIP
CME Disclosure Statement

• The North Shore LIJ Health System adheres to the ACCME’s new Standards for Commercial Support. Any individuals in a position to control the content of a CME activity, including faculty, planners, and managers, are required to disclose all financial relationships with commercial interests. All identified potential conflicts of interest are thoroughly vetted by the North Shore-LIJ for fair balance and scientific objectivity and to ensure appropriateness of patient care recommendations.

• Course Director and Course Planners: Kevin Tracey, MD, Cynthia Hahn, Emmelyn Kim, MPH, and Tina Chuck, MPH have nothing to disclose.

• Course Speakers: Dorean J. Flores and Meredith Burcyk have nothing to disclose.
Course Objectives

• Develop appropriate study consent forms
• Discuss proper informed consent process and documentation
• Develop QA practices for consent review
What is Informed Consent?

- Informed consent is a process by which a subject voluntarily confirms his or her willingness to participate in a particular trial, after having been informed of all aspects of the trial that are relevant to the subject's decision to participate (GCP E6 1.28).

- The informed consent process involves a mutual exchange of information between the research staff and the subject to elicit an understanding of essential information necessary for informed decision making.

- Informed consent can only be obtained by those who are qualified and approved by the IRB.
What Do the Regulations Say?

• 45 CFR 46.116/ 21 CFR 50.20 - no investigator may involve a human being as a subject in research covered by this policy unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative.

• 45 CFR 46.117/ 21 CFR 50.27 - informed consent shall be documented by the use of a written consent form approved by the IRB and signed (and dated) by the subject or the subject's legally authorized representative.
Guidance and Local Policy

• FDA’s Information Sheet: Guide to Informed Consent
• HHS Guidance documents on informed consent
• Health System Policy GR089: Informed Consent and Recruitment for Human Subject Research
• HRPP Manual – Policy 14
What are the required elements of informed consent?

• Statement that the study involves research
• Purpose of the research
• Expected duration of participation
• Description of the procedures
• Identification of experimental procedures
What are the required elements of informed consent? (continued...)

• Potential risks and discomforts
• Potential benefits to subject and society
• Alternatives to participation in the research
• Information regarding the confidentiality of the data (including HIPAA Language) – and if applicable, a statement indicating that the FDA may inspect the data
• Compensation for research-related injury
• Contact information for answers to questions
What are the required elements of informed consent? (continued…)

- Statement that participation is voluntary
- Subject, investigator and witness signature
- Statement about unforeseeable risks
- Circumstances of terminated participation
- Additional costs to subject
What are the required elements of informed consent? (continued…)

• Consequences of subject’s withdrawal from the research
• Statement about new findings
• Approximate number of subjects involved
• Probability of random assignment
How to Prepare a Research Consent Form

• Use the IRB consent form templates
• Different sections of the consent correspond with different regulation requirements
• If consent template comes from a sponsor, need to modify consent form to include local requirements
• HIPAA authorization should be in the consent form
Who provides consent?

• The person participating in the research study
• For children (under 18 years old)
  – Parent or Legal guardian provides permission
  – Child, as appropriate, based on age – provides assent
• For those decisionally impaired (due to mental or clinical condition), a legally authorized representative can provide consent
Waivers of Consent

• Complete waiver of consent
• Waiver of signed consent form
• Alteration of the consent process
• Waiver of assent
• Waiver of parental permission
Alterations of the Consent Process

- Consent by mail/fax/phone
- Needs to be IRB approved
- May include waiver of a witness signature
Things to Note When Obtaining Consent

• Both the informed consent discussion and the written informed consent form and any other written information to be provided to subjects should include explanations of the elements previously noted according to ICH GCP 4.8.10.

• Subjects should be provided ample time to review the informed consent form, ask questions & receive answers, and be fully informed of all pertinent aspects of the study before a decision is made and prior to participation in the study.
Things to Note When Obtaining Consent

• Subjects should not be unduly influenced or coerced to participate and should not be asked to waive legal rights or release the investigator/sponsor from liability for negligence.

• Subjects should be aware that withdrawal is possible at any time.
Things to Note When Obtaining Consent

• IRB approval is required in advance for use of the written consent form and other written information provided to the subject.

• The written informed consent form must be updated/approved when new information is available that may be relevant to the subject’s decision to participate in the study.
Special Considerations for Vulnerable Populations

- Limited English Proficiency
- Limited Capacity
- Illiterate
- Minors
- Disabilities
- Emergency Situations
<table>
<thead>
<tr>
<th>Translated Consent Form (TCF)</th>
<th>Short Form + English Consent Form (ECF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bilingual approved investigator, LEP subject and witness all sign the TCF</td>
<td>Investigator signs the ECF</td>
</tr>
<tr>
<td>If bilingual interpreter is used:</td>
<td>LEP subject signs the short form</td>
</tr>
<tr>
<td>▶ LEP signs the TCF</td>
<td>Bilingual interpreter or bilingual 3rd party signs as witness on both TCF &amp; ECF</td>
</tr>
<tr>
<td>▶ Interpreter or 3rd party signs as witness on both TCF &amp; ECF</td>
<td>Investigator signs the ECF</td>
</tr>
<tr>
<td>▶ Investigator signs the ECF</td>
<td></td>
</tr>
<tr>
<td>If telephonic interpreter services are used:</td>
<td>If telephonic interpreter services are used, an in-person witness to the consent process is required.</td>
</tr>
<tr>
<td>▶ LEP signs the TCF</td>
<td>It is preferable for a bilingual person to witness and sign both the ECF and the short form.</td>
</tr>
<tr>
<td>▶ Witness signs the ECF</td>
<td></td>
</tr>
<tr>
<td>▶ Investigator signs the ECF</td>
<td>However, if a bilingual witness is not available, an in-person witness who speaks the language of the</td>
</tr>
<tr>
<td>▶ The telephonic ID# should be recorded on the TCF with a detailed enrollment note.</td>
<td>research subject is acceptable. The telephonic ID# should be recorded on the short form with a detailed</td>
</tr>
<tr>
<td></td>
<td>enrollment note.</td>
</tr>
</tbody>
</table>
Decisionally Impaired Subjects (Limited Capacity)

- Assessment documented
  - Re-consent required once capacity is regained
  - Use open-ended questions rather than quizzes
- LAR (Legally Authorized Representative) / Surrogates / Next-of-Kin
  - Approval for the use of surrogate consent will be considered by the IRB
- Assent of subject may be required (signed and dated)
- Documentation is key
Disability

• When subjects (or legally authorized representatives) are unable to read or sign a written consent form (such as blind, illiterate, or physically handicapped subjects), the IRB may approve an oral consent process, provided the subject:
  – (1) retains the ability to understand the concepts of the study and evaluate the risk and benefit of being in the study when it is explained verbally, and
  – (2) is able to indicate approval or disapproval to study entry.
Disability (con’t)

• An oral consent process is used
• 1 impartial witness is required to witness the consent process
• The subject can make their mark or an “X” to signify consent
MINORS

• Assent is usually required (as appropriate) – ensure to assess and document minor’s ability to assent
• Assent obtained from children starting 7-9 years, depending on developmental maturity; child subject should sign and date an assent form
• Will require written permission of one or both parents as determined by the IRB
• Re-consent will be required at the age of majority (18 in NYS) if still actively involved
Emergency

• In emergency situations where the subject and legal representative are unable to consent, enrollment requires protective measures to be described in protocol or other IRB approved documents.

• Subject or legal representative should be informed as soon as possible and consent to continue and other consent as appropriate.
Ongoing Consent

Ongoing

Documentation

Age of Majority

Gains Capacity

New information or as required
Good Documentation Practices
Valid Scientific Contribution

To produce credible and reliable data while protecting the rights and welfare of subjects.

The way the research is conducted is directly related to the protection of the subject and the quality of the data that’s produced.

When we produce high quality data, we can be confident in the value of our scientific contribution.

Your research provides generalizable knowledge when it is shared with others (publication, conferences, symposiums, sharing with other researchers etc).

To accomplish this goal, we must adhere to Good Clinical Practices as well as Federal, State, and institutional (NSLIJHS) requirements.
Good Documentation Practices

Subject-Related Documentation Life-Cycle

- Obtaining Informed Consent
- Subject Screening
- Ensuring Eligibility
- Documentation of the Individual Study Visits
- Test/Procedure Results
- Adverse Event Reporting
- IP Management including accountability
- Subject Termination

The Feinstein Institute for Medical Research
Empowering Imagination. Pioneering Discovery.
Proper Consent Form Completion

First ensure completion of any consent choices or quizzes by the subject

Signature Order:

• 1\textsuperscript{st}: Subject signs, prints name and dates
  – LAR/Parent/Guardian signs if surrogate consent was obtained.

• 2\textsuperscript{nd}: Witness signs, prints name and dates
Proper Consent Form Completion

• 3rd: Investigator who obtained consent signs, prints name and dates

• Everyone must sign, print and date for themselves.

• A signed and dated copy of the consent form should be given to the subject or the LAR/Parent/Guardian (including any other written information provided to the subject).
Enrollment Notes

The subject is considered “enrolled” once informed consent is obtained.
Used to:

- Document the consent discussion
- Demonstrate that all requirements were met prior to the subject’s active participation in the study
- Document any issues or deviation from usual consent (e.g. assent not obtained, translation needed, proxy, etc.)
Subject Enrollment Note (Sample)

Date: 5/5/10, 10AM  
Protocol: Test Trial  
Subject initial: A-B  
Study ID#: 131

Subject #131 met all the inclusion criteria and did not meet any exclusion criteria for the Test Trial and was enrolled on 5/5/10. The study was explained; the subject had an opportunity to ask questions, and was given a signed copy of the consent form. Consent was obtained prior to the start of any study procedures.

(For women of child bearing potential)

The procedures listed in the consent with regard to pregnancy were reviewed with the subject. The subject agreed to continue abstinence or a medically accepted method of birth control as defined in the consent for the entire study. The subject was informed to notify the study doctor immediately if she suspects she has become pregnant.

A laboratory specimen for screening was drawn and shipped to the West Lab as per protocol.

Physical exam by Dr. Smith
Past Medical History: <include all medical and surgical history>
Current medications: <include name, dose, frequency, indication, and date started>
Next study visit is 5/10/10 at 10am.

<Signature and date of Investigator>
**What Do I Do With the Consent Form?**

<table>
<thead>
<tr>
<th>Person/Location</th>
<th>*Copy/Original</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject</td>
<td>Copy</td>
</tr>
<tr>
<td>Medical Record</td>
<td>Copy</td>
</tr>
<tr>
<td>Regulatory Binder</td>
<td>Original</td>
</tr>
<tr>
<td>Research Subject File</td>
<td>*Copy</td>
</tr>
</tbody>
</table>

*The above is recommended, but may also depend on sponsor requirements*
Quality Assurance
Internal Quality Assurance Process

• Delegate personnel to conduct periodic, regular reviews of:
  – Consent forms and essential documents in the regulatory binder
  – Study documentation/subject files

• Tools and templates for QA activities - ORC website or “Google it”
  – Self-Audit Checklist
Internal Quality Assurance Process

• Tools and Guidance Page on Website

Informed Consent Guidance
- Glossary of Lay Terminology for Consent Forms – Updated 11/15/13
- Strive for Excellence in Research Consent Guide – with guidance on consenting subjects with Limited English Proficiency (LEP)
- Guidance on Consent Form Signatures for Subjects with Limited English Proficiency - Updated 5/28/13
- Health Literacy Checklist
- NSLIJ Consent form templates
Fundamental Elements of Data Quality

- **Attributable** – Does the documentation clearly demonstrate who created the record and when, what happened, and when it occurred?

- **Legible** – Can the information be easily read and understood?

- **Contemporaneous** - Was the information documented with timeliness?
  - **Complete** – Does the documentation include all of the necessary information?

- **Original** – Did you maintain the “source” of the information (see GCP Glossary, Sections 1.51 and 1.52)?

- **Accurate** – Does the information represent what actually happened?
Internal Quality Assurance Process

• Corrective and Preventative Actions (CAPA) development and review (if applicable)
• Utilize the QA findings for improvements to the program – SOP, MOP, policies, etc
• Regular research education competency
• Obtain support and resources from departmental leadership/ administration
Internal Quality Assurance Process

http://health.state.tn.us/MCH/MedicalHome/improvement.shtml
Ask Questions

• We’re here to help!

• Office of the IRB – 516-321-2100
• Office of Research Compliance – 516-321-2101
Case Studies
Case Study #1

• During a routine audit, the Office of Research Compliance discovered that a study team was attaching their research consent form to all of the forms a patient had to sign prior to surgery.

• The secretary would collect all of the research consent forms at the end of the day and would leave them in a pile on the PI’s desk to sign later.
Case Study #1

• What is wrong with this consent process?
• What problems do you see with consent form documentation?
• How can this consent process and documentation be improved?
Case Study #2

• An investigator proposes to conduct a randomized study targeting individuals who are clinically diagnosed with morbid obesity or a comorbidity requiring bariatric surgery.

• The investigator seeks to evaluate the effectiveness of a new weight loss surgical technique versus the standard bariatric surgical technique. The new weight loss surgical technique has only been performed in animal studies.

• The study is designed as a deception study where subjects will be told that they will be receive the investigational intervention, but instead will be randomized to the investigational intervention or no treatment at all.

• The investigator proposes to send all subjects home with a bandage covering the incision site as a mechanism for maintaining the blind.
Case Study #2

• What is wrong with the design of the study?

• What problems do you see with the consent process proposed?

• Is there an alternative way to conduct the study? If so, how can the study and consent process be improved?
Questions and Comments?
Dorean Flores, CIP
Manager, Office of the Human Research Protection Program
(516) 321-2112
dflores1@nshs.edu

Meredith Burcyk, CIP
Manager, Office of Research Compliance /
Office of the Human Research Protection Program
(516) 321-2115
mburcyk@nshs.edu