Mini Session: OHRP
Human Subject Protections

NIH Regional Seminar
Program Funding and Grants Administration
Las Vegas, NV – June 25, 2009

Michelle Feige, MSW
Division of Education and Development (DED)
Office for Human Research Protections (OHRP)
Department of Health & Human Services (HHS)
Administrative Changes

OHRP’s Organization
Office for Human Research Protections

HHS - Office for Public Health & Science
Assistant Secretary For Health

Jerry Menikoff, MD, JD – Director, OHRP
Melody Lin, PhD - Deputy Director
Michael Carome, MD - Associate Director for Regulatory Affairs

Division of Compliance Oversight
Kristina Borror, PhD Director

Division of Policy and Assurances
Irene Stith-Coleman, PhD Director

Division of Education and Development
Elyse Summers, JD Acting Director

International Activities
Melody Lin, PhD
Outline

- HHS Regulations & Applicability
- Protections Afforded by the Regulations
  - Assurances
  - IRB Review
  - Informed Consent
- Reporting Requirements & Compliance
  Oversight Procedures
HHS Regulations & Applicability
The Belmont Report

Ethical Principles and Guidelines for the Protection of Human Subjects of Research

The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research
April 18, 1979
Regulation for Protection of Human Subjects

HHS regulations: Title 45 CFR part 46

- Subpart A - basic HHS Policy - “The Common Rule” or Federal Policy
  - Basic IRB & informed consent requirements
  - Other federal departments & agencies have adopted - FDA has its own


*only in part
HHS Regulations: Title 45 CFR part 46, cont’d

- Subpart B - Pregnant Women, Human Fetuses, and Neonates
- Subpart C - Prisoners
- Subpart D - Children
- Subpart E – IRB Registration (effective 7/2009)
Applicability of HHS Regulations

Regulations apply to

- **Research** involving **human subjects** conducted or supported by HHS, and that is **not** otherwise **exempt**

  OR

- Non-exempt human subject research covered by **Assurance of Compliance**
Determining Applicability

- Does activity involve Research? §46.102(c)
- Does research involve Human Subjects? §46.102(f)
- Is human subjects research Exempt? §46.101(b)
- When is an institution Engaged in covered research?
- Decision Charts:
  
  [http://www.hhs.gov/ohrp/humansubjects/guidance/decisioncharts.htm](http://www.hhs.gov/ohrp/humansubjects/guidance/decisioncharts.htm)
Definition:

- **Research** - a systematic investigation designed to develop or contribute to *generalizable knowledge*
  - includes research development, testing, evaluation, e.g., pilot studies

§46.102(c)
**Definition:**

- **Human Subject** - a living individual about whom an investigator conducting research obtains
  - data through intervention or interaction with the individual, or
  - identifiable private information*

* identity of the subject readily ascertained by the investigator or associated with the individual

§46.102(f)
Human Subject Research Activities that are Exempt Include:

- Normal educational practices in established educational settings
- Educational tests, surveys, interviews, or observation of public behavior unless identified and sensitive
- Research on elected or appointed public officials or candidates for public office
  * exception for prisoners
  ** exception for children
- Research using existing data, if publicly available or recorded without identifiers
- Evaluation of public benefit or service programs
- Taste and food quality evaluation and consumer acceptance studies

§46.101(b)
When is Institution Engaged?

Institution generally engaged when its employees or agents obtain, for research purposes:

- data about the subjects of the research through intervention or interaction with them; or
- identifiable private information about them

Guidance at:

http://www.hhs.gov/ohrp/humansubjects/guidance/engage08.html
Protections Afforded by the Regulations
HHS Regulations (45 CFR part 46)

HHS will conduct or support non-exempt human subject research only if:

- the institution has an OHRP-approved assurance, and
- the institution has certified to HHS
  - research was reviewed and approved by IRB, and
  - the research will be subject to continuing review

§46.103(b) & (f)
Basic Protections

Assurance of Compliance

Institutional Review Board

Legally Effective Informed Consent
Institutional Assurance

- Written commitment to comply with regulations
- Reviewed and approved by OHRP
- Terms of Assurance
- Federalwide Assurance (FWA) – only option
- Method of compliance oversight for OHRP
- Generally recognized by other federal departments & agencies

Registering IRB and filing FWA:
http://www.hhs.gov/ohrp/assurances
http://www.hhs.gov/ohrp/assurances/assurances_index.html
Institution’s FWA Covers …

- Institution’s legal components
- Employees and agents, including students conducting research covered by FWA
- May be extended to collaborating individual investigators, in limited circumstances
  - Individual Investigator Agreement (IIA)
  - Assured institution responsible for oversight of research
  - Individual investigator must adhere to *Terms* of the IIA
IRB Review

- Institutional Review Board (IRB):
  
  A committee charged with the review of human subject research to ensure that the rights and welfare of research subjects are adequately protected.
IRB Review

- Review by IRB designated in assurance
- Must be substantive and meaningful
- Sufficient information to make required findings at §46.111 and relevant subpart(s)
- Members with conflicting interest may not participate
- When? - initial, continuing, & prior to changes
Informed Consent

Legally effective informed consent

- Each prospective subject or legally authorized representative
- In accordance with and to extent required by §46.116
- - unless waiver/alteration consistent with §46.116(c) or (d), §46.408(c), or §46.101(i)
Informed Consent, cont’d

Key principles of the informed consent process:

- **Full disclosure** of the nature of the research and the subject's participation,
- **Adequate comprehension** on the part of the potential subjects
- The subject's **voluntary choice** to participate
When is Informed Consent Not Required?

- Provisions for waiver or alteration
  - consistent with §46.116(c) or (d)
  - waiver of child assent & parental permission - §46.408 (subpart D)
  - Secretarial waiver §46.101(i) – e.g., research conducted in emergency setting
Reporting Requirements & Compliance
Oversight Procedures
Reporting Requirement - § 46.103(b)(5)

- Unanticipated problems involving risks to subjects or others
  - Unanticipated problems vs. adverse events
- Suspension of termination of IRB approval
- Serious or continuing non-compliance
What is an Unanticipated Problem?

- Unexpected
- Related or possibly related to research
- Place subjects or others at greater risk of harm
Adverse Events vs. Unanticipated Problems

Unanticipated Problems

Adverse Events
Compliance Oversight Procedures

- Written complaint/allegation
- Jurisdiction determination
- OHRP initiates inquiry – asks institution to investigate & provide report
- OHRP receives written report, and evaluates report and other relevant documents
- Additional correspondence/telephone interviews/site visit
- Issue final determination

Guidance at:  http://www.hhs.gov/ohrp/policy/incidreport_ohrp.html
Possible Determinations/Outcomes

- In compliance
  - no recommendations
  - recommend improvements

- Noncompliance
  - need corrective actions
  - FWA restricted or withdrawn, pending corrective actions
  - recommend additional actions by HHS
  - recommend debarment - 45 CFR part 76
Key Points

- Know how and when the regulations apply
- Understand the 3 levels of protections
- Be sure the criteria at 46.111 is met
- Understand reporting requirements
- Be compliant
- Contact us
Contact Information

- OHRP Web page:  http://www.hhs.gov/ohrp
- Main Phone Number:  240-453-6900
  Toll Free:  1-866-447-47771-866-HHS-HRPP
- Staff Phone Numbers:
  http://www.hhs.gov/ohrp/about/staff.html
- IRB Registration & Assurance Staff:
  http://www.hhs.gov/ohrp/daq1-staff.html
- E-mail:  ohrp@hhs.gov
- Join Listserv:
THANK YOU
for Protecting
Human Subjects!