Flex Coalition Luncheon: Flexibility

AAHRPP Conference: Detroit, MI

May 11, 2017

Susan Rose, University of Southern California (USC)

- Please share creative/innovative efforts in your programs to keep pushing flex.
- The fact that OHRP adopted major ideas of flex coalition for new rule (continuing review, exempt, expedited) inspires us to keep going!!
- We would like the coalition to contribute on topics such as:
    - Generic template protocol for emergency disaster research (i.e. Ebola, Minnesota bridge collapse). A streamlined/fast IRB review
    - Working with the community
    - Surveys of the IRB: Who does them? How do you address what your community tells you they hate about the IRB?
    - Educating on the new rule: How do you get people in the room? Who are they?
    - Clinical Trials with Social-behavioral Research
    - Scientific Review for studies not peer reviewed
    - Working with CRCs (research coordinators)
    - E-health technology
    - IRB review of data security/iCloud sites that are HIPAA compliant
    - Working with/in other countries
    - Training for anyone working with minors and adding that burden on the IRB for tracking. Aftermath of the Penn State scandal

Nichelle Cobb, University of Wisconsin – Madison, SMART IRB

The SMART IRB reliance system is live and webinars are available. Currently 199 institutions signed on to the master agreement and now need to figure out how to use it.

SMART IRB is an on-line reliance system set up to help institutions communicate and document reliance arrangements. Funded by The National Center for Advancing Translational Science provides (NCATS), SMART IRB reliance system was designed in response to the NIH single IRB mandate and the upcoming new common rule requirements.

It allows institutions to document on a study-by-study basis who is playing what role. The requests for reliance originate from the investigators.

The SMART IRB model is a non-shared review model and the reviewing IRB takes on all the reviewing responsibility, but maintains a close relationship with the reliance institutions. There is guidance, FAQs, and ambassadors on the website (www.smartirb.org) to help institutions with implementation of the

single IRB review, address questions, and bring up concerns/issues. The Smart IRB system is not an IRB application or document storage system, its purpose is to help standardize and document the reliance process.
The system is live as of May 4, 2017. Those who have not set up a profile in the system please do so.
Benefits of the system include:

- Clarity and guidance: System guides the user through the request process
- Automatic notification: email notifications at key points in the decision making process
- Helping institutions make connections: Gives Point of contact for each institution
- A reliance tracking system: a single place for investigators and institutions to track reliance arrangements

5 step process for investigators to initiate reliance:

1) Provide details about the study
2) List the engaged sites
3) Identify activities and personnel at each site
4) Upload research protocol and consent templates
5) Home institution says yay or nay to serve as the reviewing IRB. There are webinars to demo the system, refer to the website for additional information: www.smartirb.org

Jeffrey Cooper, WIRB – Copernicus Group

Jeff Cooper's critical analysis and impressions on the new rule follow:

- Single IRB mandate takes effect 1/20/20 though the new common rule itself takes effect 1/19/2018.
- The new common rule (which only applies to HHS research) may still be overturned so expect the unexpected.
- The sIRB requirement has already been implemented so there is a need to prepare now.
- Because of the lack of harmonization, institutions are going to need different SOPs for FDA, HHS, DOJ, both HHS and FDA and unregulated research (flexed).
- Summary of the common rule changes from an operational perspective:

  45CFR 46.101:

  - Federal Register contains notification of acceptable alternative protections for international research provided
  - Describe consultation with all Common Rule agencies prior to publishing guidance

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45 CFR 46.102: Definitions altered

- Clinical trial
- Identifiable bio-specimen
- Research: categories of activities deemed not research
- Human subject: now equates bio-specimens with information
- Identifiable (OHRP to issue periodic guidance on "identifiable" but this impact is uncertain)
- Broad consent
- Limited IRB review

(The changes in definitions have minimal impact, as this is clarification of the pre-NPRM.)

45 CFR 46.103:

FWA no longer requires designation of IRBS, IRB rosters and review of grants. There is also no option to "Check the box." Though this has no effect if sites have already unchecked the box. It will have an impact where state law applies if box is unchecked but OHRP is focused on federally funded research.

45 CFR 46.104: Exemptions

There are major changes to exempt categories. There are now 8 categories of exemption.

1. Education –slightly restricted version of current category # 1
2. Interactions – broad expansion mostly includes current exempt 3 and expedited 6 and 7
3. Benign Behavioral Interventions– broad expansion includes current expedited 6 and 7
4. Identifiable Private Information –broad expansion, applies to prospective research, replaces expedited 5 at HIPAA covered entities
5. Federal Research or Demonstration Project – new requirement for agencies to determine and publish
6. Taste and Food – no change/no impact
7. Storage or Maintenance for Secondary Research
8. Secondary Research

These changes are a major win for flex. Most institutions are already doing a limited IRB review by staff or expedited reviewers so there should be minimal impact.

45 CFR 46.107: IRB membership

The new rule removed the gender requirement. However, it is still an FDA and AAHRPP requirement so the wording still needed in SOPs until there is harmonization.

45 CFR 46.108: IRB functions and operations

This requirement was moved from 46.103 to 46.107. This now matches FDA and should have minimal impact. Institutions will need to revise SOPs to match regulatory references.

45 CFR 46.109: IRB review of research

Continuing review is no longer required for research "eligible" for expedited review. Continuing review is **not** required for follow-up and analysis. If an IRB requires a continuing review it must be justified and documented. This has a major impact as it affects full board meetings, is not applicable to FDA research and, affects the AAHRPP pricing model.

45 CFR 46.110: Expedited review procedures

OHRP will revisit expedited review categories yearly. If an IRB decides research that falls into an expedited category involves greater than minimal risk, the IRB needs to document why. Minor impact is expected with the exception of those IRBs that do not understand minimal risk research.

45 CFR 46.111: Criteria for IRB approval of research

OHRP must issue guidance on "adequate provisions to maintain the confidentiality of subjects." This also adds criteria for exempt research involving data and bio-specimen banking. This has a minor impact pending OHRP issuing guidance.

45 CFR 46.114: IRB Review of Research

This covers Single IRB review of multi-site research. This is a done deal since NIH has already set a deadline to implement this rule for NIH funded research (September 2018).

45 CFR 46.116: General Requirements for Informed Consent:

Consents have to provide information that a "reasonable person" would want in order to participate in a study. Consent must begin with a concise and focused presentation of the key information and must be organized and presented in a way that facilitates comprehension.

In the preamble to the Common Rule, OHRP focuses on the consent document and how to write it. The consent *process* is not the document (Jeff Cooper feels we are moving 10 years backwards). Also, do we make all these changes to all consent documents or just HHS regulated research? and do we spend time eliminating duplicate information?

- Categories of research where consent is not required:

- An IRB may approve research that involves gathering information or biospecimens for screening, recruiting, or eligibility without consent, if either:
- The investigator will obtain information through oral or written communication with the subject or LAR
- The investigator will access records or stored identifiable bio-specimens
- Note:
  - Not a "waiver"
  - No documentation required
- Impact: None as this has been OHRP policy

- Waiver of the consent process:

  All changes in waivers and alterations of the consent process are limited to exempt research requiring "Broad consent."

- Posting of Informed Consent Document:

  For each multisite clinical trial, one approved consent form must be posted on a publicly available Federal website by the awardee or the agency conducting the trial. If the agency supporting the trial determines that certain information should not be made public, such agency may permit or require redactions. The burden is on awardee or funding agency and limited to federally sponsored research (unless FDA harmonizes). Minimal impact and no IRB changes needed.

45 CFR 46.117: Documentation of Informed Consent

Jeff mentioned there is an additional short form statement: "The key information required by 45 CFR 46.116(a)(5)(i) was presented first to the subject, before other information, if any, was provided."

There is also a new category to waive written documentation of consent:

- The research presents no more than minimal risk of harm to subjects
- The subjects or LARs are members of a distinct cultural group or community in which signing forms is not the norm
- There is an appropriate alternative mechanism for documenting that informed consent was obtained

There is a minimal impact but SOPs need to be updated.

Jeff reminded everyone to remain calm and all will be ok.