From: Beers Block, Patricia on behalf of OC GCP Questions
Sent: Thursday, December 22, 2005 9:12 AM
To: [redacted]
Subject: RE: Section 11.100 of Title 21 of Code of Federal Regulations

Dear [redacted],

Through a circuitous route, your message was forwarded to our office (Good Clinical Practice Program) for a direct reply. I understand your interest in clarifying exactly what needs to be done with regard to using electronic signatures; this is a question I frequently receive.

The regulation found at 21 CFR 11.100(c) simply requires that persons using electronic signatures certify to FDA that the electronic signatures in their system are intended to be the legally binding equivalent of traditional handwritten signatures. The preamble to this regulation explains more about who needs to submit the certification. We recently posted the Federal Register publication of 21 CFR Part 11 to our Good Clinical Practice Program's web page (see "Miscellaneous" at www.fda.gov/oc/gcp/preambles/default.htm). This posting includes the preamble and the codified for the Part 11 final rule. I mention this because this publication contains the agency's comments on electronic signature certification procedures. I've copied (immediately below) comment #120 because I believe it best answers your questions.

"120. Several comments questioned the procedures necessary for submitting the certification to FDA, including: (1) The scheduling of the certification; (2) whether to submit certificates for each individual or for each electronic signature; (3) the meaning of ``territory'' in the context of wide area networks; (4) whether such certificates could be submitted electronically; and (5) whether organizations, after submitting a certificate, had to wait for a response from FDA before implementing their electronic signature systems. Two comments suggested revising proposed Sec. 11.100(c) to require that all certifications be submitted to FDA only upon agency request. One comment suggested changing ``should'' to ``shall'' in the last sentence of Sec. 11.100(c) if the agency's intent is to require certificates to be submitted to the respective FDA district office.
The agency intends that certificates be submitted once, in the form of a paper letter, bearing a traditional handwritten signature, at the time an organization first establishes an electronic signature system after the effective date of part 11, or, where such systems have been used before the effective date, upon continued use of the electronic signature system.
A separate certification is not needed for each electronic signature, although certification of a particular electronic signature is to be submitted if the agency requests it. The agency does not intend to establish certification as a review and approval function. In addition, organizations need not await FDA's response before putting electronic signature systems into effect, or before continuing to use an existing system.
A single certification may be stated in broad terms that encompass electronic signatures of all current and future employees, thus obviating the need for subsequent certifications submitted on a preestablished schedule.
To further simplify the process and to minimize the number of certifications that persons would have to provide, the agency has revised Sec. 11.100(c) to permit submission of a single certification

that covers all electronic signatures used by an organization. The revised rule also simplifies the process by providing a single agency receiving unit. The final rule instructs persons to send certifications to FDA's Office of Regional Operations (HFC-100), 5600 Fishers Lane, Rockville, MD 20857. Persons outside the United States may send their certifications to the same office.
The agency offers, as guidance, an example of an acceptable Sec. 11.100(c) certification:
Pursuant to Section 11.100 of Title 21 of the Code of Federal Regulations, this is to certify that [name of organization] intends that all electronic signatures executed by our employees, agents, or representatives, located anywhere in the world, are the legally binding equivalent of traditional handwritten signatures.
The agency has revised Sec. 11.100 to clarify where and when certificates are to be submitted.
The agency does not agree that the initial certification be provided only upon agency request because FDA believes it is vital to have such certificates, as a matter of record, in advance of any possible litigation. This would clearly establish the intent of organizations to equate the legally binding nature of electronic signatures with traditional handwritten signatures. In addition, the agency believes that having the certification on file ahead of time will have the beneficial effect of reinforcing the gravity of electronic signatures by putting an organization's employees on notice that the organization has gone on record with FDA as equating electronic signatures with handwritten signatures."

As you can see, the regulation leaves the decision as to who submits the certification entirely up to the affected parties. Whether you, the CRO/sponsor plan to submit certification is something your firm should clarify with and, ideally, obtain in writing from the CRO/sponsor so there is no later misunderstanding about this regulatory responsibility.

I hope this information is helpful to you.

Sincerely,

Patricia M. Beers Block
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This communication does not constitute a written advisory opinion under 21 CFR 10.85, but rather is an informal communication under 21 CFR 10.85(k) which represents the best judgment of the employee providing it. This information does not necessarily represent the formal position of FDA, and does not bind or otherwise obligate or commit the agency to the views expressed.

[redacted]

-----Original Message-----
From: [redacted]

Sent: Tuesday, December 20, 2005 3:00 PM
To: WEBO@cdrh.fda.gov
Subject: Section 11.100 of Title 21 of Code of Federal Regulations

[redacted] conducts investigational drug research clinical trials with various pharmaceutical companies [redacted]. [redacted] instructed by CRO overseeing particular study that we needed to send in to FDA a form letter regarding eSignatures from our site. We had previously been instructed (from another CRO) that it was the SPONSOR or pharmaceutical company who initiated the study with our site that was responsible to send all info to FDA regarding a particular study and that we were NOT required to send in the said form letter, that the sponsor in charge of recruiting/training investigators to conduct their clinical trial would send in the form stating all sites/investigators had received training in eSignatures, and would verify that the eSignatures were valid for each site. Please let me know if i should indeed write the form letter and return it to the FDA for our site or if the Sponsor sends in all documentation relating to his clinical trial and the investigators he has chosen to conduct his study. The original Sponsor / CRO i spoke to stated that sites were not to send anything directly to FDA, that they would meet all requirements for their studies/investigators...now, this CRO is telling me something entirely different...please clarify requirements on Section 11.100 regarding eSignatures. Thank you for your help in this matter....

[redacted]