Department of Veterans Affairs **VHA DIRECTIVE 2008-064**
Veterans Health Administration
Washington, DC 20420 **October 16, 2008**

RESEARCH COMPLIANCE OFFICERS AND THE AUDITING OF VHA HUMAN SUBJECTS RESEARCH TO DETERMINE COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS, AND POLICIES

1. PURPOSE: This Veterans Health Administration (VHA) Directive establishes policy requiring the appointment of a Research Compliance Officer (RCO) and the periodic auditing of Department of Veterans Affairs (VA)-approved human subjects research to assess compliance with all applicable laws, regulations, and policies including those related to privacy, confidentiality, and information security requirements. The effectiveness of this Directive in assuring the highest level of human subjects protections will be evaluated in a year.

2. BACKGROUND: As a public agency, VHA has an obligation to preserve public trust in the integrity and quality of research carried out by its investigators, involving subjects in VA research, and in its facilities. VA must exercise prudent stewardship of public resources, including public funds that support research programs. Appropriate mechanisms must be in place to evaluate the functioning of the Human Research Protection Program (HRPP) and the safeguards in place to protect human research subjects in VA research. There must also be appropriately trained staff available at each VA facility conducting human subjects research to audit each research project involving human subjects.

a. Auditing is a mechanism to evaluate VA's human subject research program and, when appropriate, identify areas for corrective action. An active auditing program should provide reasonable assurance of the integrity of the research program and that adequate protections for research subjects are in place. To provide this reasonable assurance the staff conducting the audits must be independent of the research program and the research study.

b. VHA Handbook 1200.5 currently requires that the Institutional Review Board (IRB) develop written procedures for conducting audits of protocols and other IRB activities. This Directive requires that specific policies are in place for periodic and random audits of human subject research protocols and HRPP processes, and require appropriate and timely corrective actions when deficiencies are identified.

c. **Definitions**

(1) **Institutional Review Board (IRB).** The IRB is a board established in accordance with, and for the purposes expressed in, the Federal Policy (Common Rule) for the Protection of Human Subjects (Title 38 Code of Federal Regulations (CFR) 16.102(g)). It is responsible for the review of, approval or disapproval of, and continuing oversight of research involving human subjects.

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(2) **Human Subjects Research.** Human subjects research is research that involves human subjects.

(a) As defined in the Common Rule (38 CFR 16) and VHA Handbook 1200.5, a human subject is a living individual about whom an investigator conducting research obtains:

1. Data through intervention or interaction with the individual, or

2. Identifiable private information.

(b) An intervention includes both physical procedures by which data are gathered and all manipulations (physical, psychological, or environmental) of the human subject, or the subject's environment, that are performed for research purposes.

(c) Interaction includes communication or interpersonal contact between the investigator and the human subject.

(3) **Research.** As defined by the Common Rule (38 CFR 16.102(d)) research means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.

3. POLICY: It is VHA policy that each Director of a VHA facility conducting human subjects research must appoint an individual as RCO who is responsible for the auditing program of the local HRPP.

4. ACTIONS

a. **Facility Director.** The facility Director is responsible for:

(1) Appointing an individual as RCO for the HRPP.

(a) The RCO must report directly to the facility Director.

(b) The RCO must have appropriate skills and knowledge to fulfill their duties.

(2) Ensuring that each VA-approved human research study is completely audited at a minimum of every 3 years and that each study is audited for compliance with the regulations and policies on informed consent once a year after the recruiting process begins. ***NOTE****: Human Subjects research study audits may be conducted more frequently as deemed appropriate.*

(3) Ensuring that the compliance audits assess compliance with all applicable laws, statutes, regulations, and policies including those related to privacy, confidentiality, and information security.

(4) Evaluating, at least annually, the effectiveness of the auditing program.

(5) Ensuring that adequate resources and personnel are made available to achieve the objectives of this policy.

b. **Research Compliance Officer** The RCO is responsible for:

(1) The development and implementation of the facility's Research Auditing Program. This includes:

(a) Developing the policies and the accompanying standard operating procedures (SOPs) for the auditing program. The policies and SOPs must address the:

1. Expertise required for conducting the audits.

2. Frequency of the audits beyond the minimal required frequency as listed in paragraph 4a(2) and the type of compliance audits to be conducted in addition to the required protocol audits, based on such criteria as risk to human subjects, importance of the issue to HRPP operations, and local HRPP concerns.

3. Areas to be audited. These need to include, but are not limited to:

a. Regulatory compliance;

b. Adverse event reporting;

c. Inclusion and exclusion criteria;

d. Documentation of informed consent;

e. Waiver of informed consent;

f. Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant authorization;

g. Waiver of HIPAA compliant authorization and the required documentation by the IRB or Privacy Board;

h. Compliance with all data security and data use requirements; and

i. Compliance with all privacy and confidentiality requirements.

4. Adequacy of HRPP processes, such as:

a. The effectiveness of communication with all applicable committees, persons, and officials; and

b. The documentation of compliance with VA and other requirements.

(b) Ensuring documentation and reporting requirements of the auditing program. This must include:

1. Content of the reports;

2. Persons, officials, or committees that must receive and review reports (e.g., the Principal Investigator, IRB, Research and Development (R&D) Committee, Associate Chief of Staff (ACOS) for R&D, the facility Director, and other administrative persons as appropriate);

3. Timeframe for reporting;

4. Corrective actions required by the IRB, R&D Committee, or other appropriate entities to be taken based on the findings;

5. Who should implement and review the corrective actions; and

6. How to evaluate the results of any corrective actions. This evaluation should be done through follow-up audits and reporting of the audits as required by policy.

(c) Conducting the audits;

(d) Documenting the audits and reporting the results to the IRB, the facility Director, and other entities or persons as required by VHA and local policies and procedures (e.g., the Office of Human Research Protections, the Food and Drug Administration (FDA) sponsors); and

(e) Ensuring that copies of audits and the remediation action plan are submitted to the Office of Research and Development (ORD) and the Office of Research Oversight (ORO) in order for ORO to monitor the remediation action plans.

(2) Auditing of human subjects research studies.

(a) Every human subjects research study must be audited every 3 years or more frequently.

(b) If a study is less than 3 years in duration, it must be audited at least once during the life of the study.

(c) For studies recruiting human subjects, once recruiting has begun, the study must be audited for compliance with the applicable regulations and policies related to research informed consents at least once every year.

(d) The IRB, the study sponsor, the Principal Investigator (PI), VHA administration (ORD, ORO), facility Director, the ACOS/R&D, the RCO, etc., can require more frequent audits. They can also require focused audits of 1 or more aspects of the study. The requirement to increase

the frequency of audits or to audit specific aspects of the study can be based on such considerations as:

1. Involvement of vulnerable populations;

2. Level of risk;

3. Phase I or Phase II studies;

4. Involvement of FDA approved drugs for which there has been a safety warning, or change in the labeling that indicates increased risks;

5. Issues of noncompliance; or

6. Data breach.

(e) All compliance aspects of each study must be audited including PI's response to IRB requirements and the timeliness of the PI's response.

5. REFERENCES

a. VHA Handbook 1200.5,

b. VHA Handbook 1605.1.

6. FOLLOW-UP RESPONSIBILITY: The Office of Research and Development (12) and the VHA Privacy Officer (19F) are responsible for the contents of this Directive. Questions may be addressed to 202-254-0183 (ORD).

7. RECISSIONS: VHA Directive 2008-014 is rescinded. This VHA Directive expires on October 31, 2013.

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