SACGT

Secretary's Advisory Committee on Genetic Testing
National Institutes of Health
6000 Executive Boulevard, Suite 302
Bethesda, Maryland 20892
http://www4.od.nih.gov/oba/sacgt.htm

December 12, 2000

The Honorable David Satcher, M.D., Ph.D.
Assistant Secretary for Health and Surgeon General
U.S. Department of Health and Human Services
Washington, D.C. 20201

Dear Dr. Satcher:

On behalf of the Secretary's Advisory Committee on Genetic Testing (SACGT), I am writing to recommend that you consider our request that the National Human Research Protections Advisory Committee (NHRPAC) conduct a review of current Federal policy regarding the regulatory requirements for informed consent of family members of primary research subjects. SACGT believes that current policy in this area needs to be reviewed and clarified and, given its mandate, that the NHRPAC is the most appropriate advisory body to carry out such a review. We would also recommend that the Office for Human Research Protections (OHRP) make the updating of the Human Genetic Research chapter of the IRB Guidebook a high priority.

SACGT's first recommendation is based on a preliminary review of a decision made by the former Office of Protection from Research Risks (OPRR) in a case involving a genetic research study at Virginia Commonwealth University (VCU). In the case, OPRR cited the VCU institutional review board (IRB) for failing to properly review a genetics research study. The genetics research study involved a survey of twins that asked questions about their own and their immediate family members' health status. According to OPRR's findings, the survey involved the collection of individually identifiable private information, some of which was of an especially sensitive nature, and the IRB should have considered whether the family members of the twins were human research subjects whose informed consent needed to be obtained or waived by the IRB. Prior to the publicity surrounding OPRR's decision in the VCU case, it was unclear to many in the genetics research community that OPRR interpreted the Federal regulations as requiring informed consent to be obtained (or waived) from family members about whom medical information is collected through a primary research subject.

In order to enhance understanding of the requirements and how they specifically affect family members (also called secondary research subjects) in research studies involving the development of a genetic test, SACGT organized a roundtable discussion at its public meeting in June 2000. The session involved a panel of speakers, including the complainant in the VCU case, a staff member of OPRR, and a representative of the American Society of Human Genetics. A summary of that session is enclosed.

We heard a range of perspectives from the speakers and learned that genetic researchers as well as patient advocates are committed to protecting the privacy and confidentiality of family information. Genetic researchers are concerned, however, that obtaining family histories may not be possible in large family studies if each family member must be considered a human subject from whom informed consent may need to be obtained before any medical information about that member can be collected from the primary research subject. Furthermore, if IRBs take overly restrictive positions in determining whether collection of this information represents more than minimal risk, affects the secondary research subjects' rights and welfare, or constitutes a violation of their privacy, and, therefore, is not eligible for a waiver of informed consent, the project may no longer be feasible. Because of the potential significance of this policy, and given SACGT's commitment to both the protection of human research participants and the advancement of scientifically and ethically valid genetics and genetic testing research, we concluded that NHRPAC should review its policy on secondary subjects. In particular, NHRPAC should clarify when family members of primary research subjects become human research subjects themselves and thereby warrant the same ethical and regulatory consideration that is required for primary research subjects.

There are many other complex questions in research involving families that go beyond the specific issues raised by the VCU case. For example, should the primary research subject always be informed and his/her permission obtained before a researcher contacts other family members to gauge their interest in participating in the research? If the primary research subject does not give permission to the researcher to contact other family members, are the other family members denied an opportunity to decide for themselves whether or not they would like to participate in the research? On the other hand, will contacting other family members without permission violate the privacy of the primary research subject or alter the relationships between the primary subject and other family members? These questions demonstrate that the centrality of the individual in current regulations may not always be appropriate for research studies that involve entire families.

We would therefore also recommend that the Human Genetic Research chapter of the IRB Guidebook be updated and that the new chapter include a more comprehensive discussion of genetic testing research issues. The new chapter should also clarify the policy on secondary subjects and reflect the outcome of NHRPAC's policy deliberations on this issue. If SACGT could be of help to OHRP in revising the chapter, we would be pleased to do so.

Thank you for your consideration of these recommendations.

Sincerely,

Edward R.B. McCabe, M.D., Ph.D.
Chair

Enclosure