From: Hommel, Carolyn - OC on behalf of OC GCP Questions
Sent: Monday, February 27, 2006 9:38 AM
To: [purged]
Subject: RE: Informed Consent - special cases

Dear [purged],

Here's the answer that we've given before, with respect to whether a clinical investigator may enroll himself, a family member, or site staff in a study.
It's probably more than you want to know, but the question comes up from time to time:

There is no regulatory prohibition against a CI, his/her family member, or site staff participating in a trial, provided that they meet the inclusion/exclusion criteria outlined in the study protocol. However, both the sponsor and the IRB have some responsibility over the recruitment of subjects so either/both can impose restrictions on whether a CI, his/her family member or site staff can participate in a trial. For example, the sponsor may include restrictions in the study protocol; and the IRB/institution may establish written policies in this area.

There are a number of potential difficulties with conducting studies that involve study staff that should be considered by the sponsor, the IRB and the study staff. One of the most significant complications pertains to the CI's ability to successfully evaluate the conduct of a study while participating in the study as a subject. The regulations require that the Clinical Investigator identified in the Form FDA-1572 personally supervise the conduct of the study. With the CI participating in the study as a subject, the CI would not be able to personally conduct or supervise his/her participation (including the treatment and reporting of unanticipated and serious adverse events). As a result, a second Clinical Investigator would have to be selected by the sponsor to ensure that the study was properly conducted throughout the entire study. Sponsors may be reluctant to do this because this approach to the conduct of the study may unnecessary complicate the study. IRBs likewise may find it difficult for the CI to properly supervise the conduct of the study while enrolled as a subject in the study, and the IRB may impose specific conditions on the conduct of the study before it approves the study. Again, this is especially true if the CI has an unanticipated and serious adverse event experience as a result of the administration of the investigational product.

A second important complication when other study staff participate as subjects in the study is the need for appropriate (and possibly additional) staff to perform that person's job responsibilities while enrolled as a subject. Again, all of this would need to be considered by the sponsor(and potentially

addressed in the study protocol), the IRB (and potentially addressed in written procedures/policies) and study staff (possibly in the form of a written procedure that describes who will be responsible for the duties of the staff member when he/she is enrolled as a subject).

There are additional complications that should be considered, such as the potential for introducing bias into the study because the CI or study staffer who enrolls as a subject may have access to information that other subjects do not typically have access to (e.g., the staffer has seen another subject experience an unanticipated adverse event and is now aware of an event about which other subjects are not aware). The items mentioned above are probably the most significant shortcomings of a CI or study staff member participating as subjects.

Finally, enrollment of a family member or site staff raises the issue of potential coercion or undue influence (i.e., Is the family member's or site staff's participation in the study truly voluntary? Does the CI's family member/site staff feel pressured to enroll when he/she otherwise would not ordinarily have participated?). Again, the IRB may have a policy related to this, and it certainly would be in keeping with good clinical practice to ask the IRB about its policies in this area before such subjects are enrolled.

With respect to your questions about participation of prisoners in studies--yes, they are considered "vulnerable" subjects (see 21 CFR 56.107(a), which includes prisoners in a list of categories of "vulnerable" subjects. FDA, however, does not have any prohibitions against their participation, nor specific regulations pertaining to them. The Department of Health and Human Services (DHHS) has issued specific regulations pertaining to the participation of prisoners; see "Subpart C--Additional Protections Pertaining to Biomedical and Behavioral Research Involving Prisoners as Subjects," beginning at 45 CFR 46.301. You can find the DHHS regulations on the website of the Office for Human Research Protections (OHRP; http://www.hhs.gov/ohrp/); that office is responsible for enforcing the provisions of 45 CFR 46, and has issued guidance about this issue (http://www.hhs.gov/ohrp/humansubjects/guidance/prisoner.htm), which may be of interest to you.

I hope this is helpful.

Sincerely,
Carolyn Hommel
Consumer Safety Officer
Good Clinical Practice Program
Office of Science and Health Coordination
Office of the Commissioner
U.S. Food and Drug Administration (HF-34)

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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.

-----Original Message-----
From: [purged]
Sent: Wednesday, February 15, 2006 5:11 AM
To: Hommel, Carolyn - OC
Subject: Informed Consent - special cases

Dear Carolyn,

What is the FDA's opinion on the following two cases:

* Can the wife of an investigator participate in a clinical trial (it is clear that she is completely independant from the study site and the investigator is no general practitioner but working in a hospital setting and does not receive directly the payments of the trial that are done in the hospital?)

* What about prisoners, can they participate (are they considered as 'vulnerable' subjects)?

Thanks for any feedback

Kind regards
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