Guidance for IRBs, Clinical Investigators, and Sponsors

Considerations When Transferring Clinical Investigation Oversight to Another IRB

DRAFT GUIDANCE

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Guidance for IRBs, Clinical Investigators and Sponsors[1] Considerations When Transferring Clinical Investigation Oversight to Another IRB

This draft guidance, when finalized, will represent the Food and Drug Administration's (FDA's) current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You can use an alternative approach if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance. If you cannot identify the appropriate FDA staff, call the appropriate number listed on the title page of this guidance.

I. INTRODUCTION

This guidance discusses the regulatory responsibilities of institutional review boards (IRBs), clinical investigators, and sponsors when oversight of a previously approved clinical investigation under FDA's jurisdiction is transferred from one IRB to another IRB. This guidance also addresses questions that have been previously raised concerning procedures and processes that are required and/or recommended by FDA when such oversight is transferred. FDA encourages individuals to contact the agency directly to discuss any unusual circumstances.

To enhance human subject protections and reduce regulatory burden, FDA and the Office for Human Research Protections (OHRP) have been actively working to harmonize the agencies' regulatory requirements and guidance for human subjects research. This guidance document was developed as a part of these efforts. For studies subject to 45 CFR part 46 (i.e., studies that are funded, conducted, or supported by the Department of Health and Human Services), OHRP has also issued draft guidance entitled, "Considerations in Transferring a Previously Approved Research Project to a New IRB or Research Institution."[2]

FDA and OHRP recognize that the two documents may appear somewhat different as there are minor variations in formatting and some necessary variations due to differences in the regulated entities under FDA's and OHRP's jurisdiction. The agencies wish to stress, however, that our intent was to provide harmonized guidance to IRBs, sponsors, institutions, investigators, and other entities involved in the study oversight transfer process. FDA and OHRP will continue to work closely in the development of final guidance and appreciate comments from interested parties.

[1] This guidance has been prepared by the Office of Good Clinical Practice, Office of the Commissioner with input from the Center for Drug Evaluation and Research (CDER), Center for Biologics Evaluation and Research (CBER) and Center for Devices and Radiological Health (CDRH) at the Food and Drug Administration.

[2] OHRP's guidance is available at: http://www.hhs.gov/ohrp/newsroom/rfc/transferdraftdoc.html.

FDA's guidance documents, including this guidance, do not establish legally enforceable responsibilities. Instead, guidances describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. The use of the word *should* in Agency guidances means that something is suggested or recommended, but not required.

II. BACKGROUND

An IRB is any board, committee, or other group formally designated by an institution to review, to approve the initiation of, and to conduct periodic review of, biomedical research involving human subjects. The primary purpose of such review is to assure the protection of the rights and welfare of the human subjects.[3] To prevent lapses in human subject protection, it is generally preferred that the same IRB retain oversight responsibility throughout the conduct of the trial, if possible. FDA recognizes, however, that clinical investigations that were originally approved by one IRB are sometimes transferred to another IRB for subsequent review and oversight. These transfers may give rise to a number of legal, regulatory, administrative, and logistical considerations for the parties involved.

Research entities involved in a transfer of IRB review responsibilities for a clinical investigation include:

- The *original* IRB, which for the purpose of this guidance means the IRB that transfers oversight responsibility to another IRB;
- The *receiving* IRB, which for the purpose of this guidance means the IRB that accepts responsibility for oversight of the clinical investigation;
- The sponsor who initiates the clinical investigation; and
- The clinical investigator who conducts the investigation.

This guidance provides FDA’s recommendations for what should be considered when review and oversight responsibility for an ongoing clinical investigation is transferred from one IRB to another IRB. In particular, it discusses possible actions that sponsors, clinical investigators, and IRB administrators for the original and receiving IRBs should consider before, during, and after any such transfer.

Although FDA regulations at 21 CFR parts 50, 56, 312, and 812 do not specifically address the issue of transfer of oversight between two IRBs, the requirements governing review, oversight, and conduct of clinical investigations still apply. Sponsors, clinical investigators, and IRB administrators will want to take into account not only their respective regulatory requirements relating to clinical investigations, but also a variety of legal, administrative, and logistical considerations accompanying such oversight transfers. This guidance does not create or imply new IRB, sponsor, or clinical investigator requirements and/or responsibilities.

[3] 21 CFR 56.102(g).

Transfers of IRB oversight of a clinical investigation may occur for a number of different reasons, including:

- A medical school decides to transfer oversight responsibility for a category of its clinical investigations (e.g., drug research, device research) to another IRB.
- A hospital's IRB realizes it has an excessive workload, but the institution does not want to establish an additional IRB and transfers oversight of some clinical investigations to another IRB.
- A large multi-campus university decides to consolidate its human subject protection system by closing one or more of its existing IRBs and transfers oversight to an independent IRB.
- A small institution has an insufficient number of clinical investigations to justify maintaining its own IRB and decides to cease operations of its IRB and transfer oversight of its clinical investigations to another IRB.
- A sponsor decides to transfer IRB oversight from one IRB to another.
- Financial or other considerations cause an IRB to cease operations.
- An institution realizes its current IRBs are overburdened and establishes another IRB to share the workload.
- A fire, flood, or other disaster temporarily prevents an IRB from fulfilling its review/oversight responsibilities.
- An IRB is subject to administrative actions under 21 CFR 56.120 or has been disqualified under 21 CFR 56.121.[4]

FDA's requirements place the responsibility for securing IRB review and approval on the clinical investigator in clinical investigations of new drugs and biological products,[5] and on the sponsor in clinical investigations of medical devices.[6] In practice, however, the party that actually initiates the transfer process varies depending on the circumstances necessitating the transfer and the parties involved. For example, an institution's IRB may decide to transfer oversight for its pediatric clinical investigations to an IRB with such expertise within the same institution. Even if an IRB initiates the transfer of oversight, the clinical investigator and sponsor continue to be responsible for their respective regulatory obligations (e.g., making modifications to the informed consent document required by the receiving IRB).[7]

Transfer of review responsibility for a clinical investigation from one IRB to another should be accomplished in a way that assures continuous IRB oversight with no lapse in either IRB approval or the protection of human subjects, and with minimal disruption of research activities. Therefore, we recommend that the original IRB work closely with the clinical investigator, the sponsor, and the receiving IRB, as appropriate, throughout the transfer process to ensure an orderly transition and continued protection of human subjects. Effective communication among the IRBs, sponsors, clinical investigators, FDA and others (e.g., institutional members, Data

[4] 21 CFR 56.121(b) provides that an IRB may be disqualified if FDA determines that the IRB has refused or repeatedly failed to comply with the applicable regulatory requirements and the noncompliance adversely affects the rights or welfare of the human subjects in a clinical investigation.
[5] 21 CFR 312.66.
[6] 21 CFR 812.40.
[7] See, e.g., 21 CFR 56.109(a), 21 CFR 312.66, and 21 CFR 812.40.

Safety Monitoring Board, Clinical Research Organization (CRO)) is critical to ensuring a smooth transition to another IRB. In some situations, a transfer may disrupt study enrollment or other aspects of a clinical investigation, whether because of unforeseen difficulties in the transfer process or because of concerns arising from the study. FDA believes that serious disruptions will be rare and hopes that providing this guidance will minimize disruptions.

Section III of this guidance document provides recommendations concerning the transfer of IRB oversight between two IRBs at separate institutions. Section IV of this document addresses several special situations: the transfer of oversight between two IRBs that operate within the same institution (e.g., two IRBs within the same university or hospital), the temporary transfer of clinical investigation oversight to another IRB that occurs as a result of a natural disaster or for other reasons, and the transfer of a clinical investigation to a new research site requiring IRB review.

III. WHEN OVERSIGHT OF A PREVIOUSLY APPROVED CLINICAL INVESTIGATION TRANSERS FROM THE ORGINAL IRB TO AN IRB AT A SEPARATE INSTITUTION

The IRB transfer process is expected to vary, depending on the reasons for the transfer, the parties involved, and the number and risk of the studies being transferred. FDA recognizes that some transfers may be relatively simple and quick to achieve, whereas others may be more complicated and involve additional legal, regulatory, administrative, and logistical considerations. For example, transfer of IRB oversight due to purely administrative reasons such as consolidating IRB workload may be straight-forward, whereas a transfer of oversight due to the original IRB's non-compliance would be anticipated to be more lengthy and involved. In general, the type of IRBs involved (e.g., academic, hospital-based, independent) would not affect the steps to consider when transferring oversight.[8]

When transferring IRB review and oversight of clinical investigations from one IRB to another IRB, FDA recommends that the transfer process be documented in a written agreement between the original and receiving IRBs, if appropriate.[9] The agreement should address the following eight steps, as appropriate.[10] We describe each of these steps in more detail below.

(1) Identifying those studies for which IRB oversight is being transferred;
(2) Ensuring the availability and retention of pertinent records;
(3) Establishing an effective date for transfer of oversight, including records, for the clinical investigation(s);

[8]FDA encourages the use of central IRBs, in appropriate circumstances, as a mechanism to reduce burden and delays in the conduct of multicenter clinical trials. The goal of the centralized process is to increase efficiency and decrease duplicative efforts that do not contribute to meaningful human subject protection. For additional information, see FDA's Guidance, "Using a Centralized IRB Review Process in Multicenter Clinical Trials," available at http://www.fda.gov/RegulatoryInformation/Guidances/ucm127004.htm.

[9] FDA recognizes that for transfers of oversight between IRBs at the same institution, the above- referenced written agreement may not be necessary as the process may be addressed by the institution's established procedures (assuming all appropriate steps as identified above are covered).

[10] This list is not meant to be exhaustive. Additional actions may be necessary and/or appropriate.

(4) Conducting a review of the study(ies) by the receiving IRB, where appropriate, before it accepts responsibility for the study(ies);
(5) Confirming or establishing the date for the next continuing review;
(6) Determining whether the consent form needs to be revised;
(7) Notifying the key parties; and
(8) Updating IRB registration information.

(1) Identifying those studies for which IRB oversight is being transferred.

One of the first steps in the transfer process is determining for which studies IRB oversight is being transferred. FDA recommends that the original and receiving IRBs have a clear understanding of this as it will help to bring certainty and continuity to the process and to allow for effective planning. The number of studies, the risk posed by them, and the circumstances leading to the transfer as discussed below, will influence subsequent steps in the transfer process, e.g., whether records are obtained from the original IRB or the clinical investigator/sponsor, how the transfer date is established, and whether the receiving IRB decides to conduct a review before accepting responsibility for the research.

(2) Ensuring the availability and retention of pertinent records.

Before the receiving IRB accepts oversight of the transferred clinical investigation, it should obtain copies of pertinent records (e.g., research protocol, approved consent form, investigator's brochure, minutes of IRB meetings at which the research was reviewed, correspondence with the investigator and/or sponsor) to allow it to meet its ongoing review and oversight responsibilities for the study once transferred.[11]

(a) Availability of pertinent records.

With concurrence of the sponsor, the original IRB should make pertinent records available to the receiving IRB.[12] This can be accomplished by providing the receiving IRB with paper or electronic copies of the pertinent records. Alternatively, the receiving IRB may decide to obtain the records directly from the clinical investigator and/or sponsor. If records are obtained in this manner, the receiving IRB should also obtain meeting minutes from the original IRB as this information may be critical to the receiving IRB's assessment of the adequacy of the previous review (e.g., discussion of controverted issues, quorum, etc). The receiving IRB may choose to obtain records directly from the

[11] For example, under 21 CFR 56.108(a) and (b), IRBs must follow written procedures for among other things conducting continuing review, for ensuring prompt reporting to the IRB of changes in research activity, for ensuring that changes in approved research during the period for which IRB approval has already been given are not initiated without IRB review and approval (except where necessary to eliminate apparent immediate hazards to human subjects), and for ensuring prompt reporting of unanticipated problems involving risks to subjects or others as well as any instances of serious or continuing noncompliance with FDA or IRB requirements. Obtaining pertinent records about studies in advance of oversight transfer should help receiving IRBs meet their on-going procedural and review obligations for the studies once transfer is complete.

[12] In some cases, sponsors may not agree to the transfer of records to a proposed IRB. If that is the case, the transfer of study oversight to that IRB should not take place. The sponsor and/or investigator should work expeditiously to arrange for oversight by another IRB.

clinical investigator and/or sponsor, for example, when a transfer occurs as a result of non-compliance actions of the original IRB.

Both the original IRB and the receiving IRB should maintain adequate records regarding the clinical investigations affected by the transfer.[13] Such records should include any written agreement between the original and receiving IRBs, the title of the protocols being transferred, the research sites affected, the names of the associated sponsors and clinical investigators, the identities of the original IRB and the receiving IRB, and the date(s) on which the receiving IRB accepts responsibility for oversight of the clinical investigations. In addition, the original and receiving IRBs should keep adequate records of all communications to all affected sponsors, clinical investigators, and FDA.[14]

(b) Retention of IRB records.

IRB records related to the review of a clinical investigation must be retained for at least 3 years after the completion of the research, and the records must be accessible for inspection and copying by FDA at reasonable times and in a reasonable manner.[15] Because FDA may require access to the records at any reasonable time, it is important for the agency to know which entity (e.g., the original IRB, the receiving IRB, the institution that housed the original IRB, a CRO or other responsible third party) will maintain the records once clinical investigation oversight has been transferred. Whichever party assumes responsibility for the records is responsible for ensuring that they are retained in accordance with 21 CFR 56.115(b).

As a general matter, the original and receiving IRBs have the flexibility to work out any suitable arrangement for handling the transfer and maintenance of the records as long as the records remain accessible for inspection and copying by authorized representatives of FDA at reasonable times and in a reasonable manner. For example, the original IRB could transfer to the receiving IRB the records related to the clinical investigations that are still active and retain the records for "closed" clinical investigations.[16]

There may be circumstances where the original IRB reaches an agreement with the receiving IRB to retain some of the documentation for the transferred trials, yet may not be able to commit to retaining the documents for at least 3 years after the completion of the research. This situation may arise, for example, where an IRB ceases operations yet retains responsibility for some records for trials that are still ongoing, either by physically

[13] Under some circumstances, e.g., if the original and transferring IRBs are located at the same institution, FDA recognizes that the records may be stored in a mutually accessible location. Duplication of the study records would not be necessary.

[14] Under 21 CFR 56.115(a)(4), IRBs are required to keep copies of all correspondence between the IRB and the investigator(s).

[15] 21 CFR 56.115(b).

[16] If storage space is a concern, the receiving IRB could, for example, scan the records as certified copies of the originals so that they can be stored electronically, as long as the records remain accessible for inspection and copying by FDA. For additional information, see the FDA guidance, "Computerized Systems Used in Clinical Investigations," available at http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM070266.pdf.

maintaining these records or by reaching a storage arrangement with a responsible third party. In this instance, we recommend that the original IRB contact FDA to discuss possible retention arrangements.[17]

(3) Establishing an effective date for transfer of oversight, including records, for the clinical investigation(s).

FDA recommends establishing a transfer date for each clinical investigation, including records, for which oversight is being transferred. Although there is no regulatory requirement to establish a transfer date, such an action promotes continuity, helps prevent a lapse in IRB coverage, and minimizes confusion regarding which IRB is responsible for review and action if an unanticipated problem should arise or if the clinical investigation needs to be quickly suspended or terminated.

Depending on the circumstances of the transfer, the transfer date may be established using one of a variety of methods, such as the following:

- In the written agreement, the exact date is specified in advance between the original IRB and the receiving IRB; or
- In the written agreement, the date is made contingent upon the review and acceptance of the clinical investigation by the receiving IRB. For example, if the receiving IRB decides to perform an initial review of the clinical investigation, the transfer may take effect on the date the receiving IRB makes its decision to approve, require modification in (to secure approval), or disapprove the clinical investigation. In this situation, the receiving IRB should notify the original IRB and other involved parties of the date of its approval and acceptance of oversight responsibilities.

Note that if both the original and receiving IRBs are located within the same institution, the transfer date may be determined according to the established procedures of that institution.

When a large number of clinical investigations are being transferred, it may be preferable to phase-in the transfer over a period of weeks or months to facilitate a smooth transition.

If oversight is being transferred because of the closure of an IRB, the original IRB should inform all clinical investigators and/or sponsors, as appropriate, of the pending closure date. If oversight by a new IRB cannot be obtained by the closure date, approval for the research would be considered suspended or terminated with no further subject enrollment.[18, 19, 20] The original IRB

[17] Factors to consider in selecting an appropriate record retention arrangement may include the reasons for the transfer, as well as the nature of the clinical investigations and the records. Generally speaking, and depending on the specific facts, FDA would expect an IRB in the above hypothetical to retain the documentation for at least 3 years after closure of the IRB.

[18] See 21 CFR 56.113.

[19] See 21 CFR 312.60, 21 CFR 312.66, 21 CFR 812.40, and 21 CFR 812.42.

[20] When IRB approval of a clinical investigation is suspended or terminated, IRBs should establish procedures to ensure that the rights and welfare of currently enrolled subjects are protected, subjects are not put at risk, and subjects receive appropriate care during any period in which the IRB and clinical investigator are attempting to resolve any remaining issues. For more information regarding reporting suspensions or terminations of IRB

must follow its written procedures for ensuring prompt reporting to its institutional officials and FDA of the suspension or termination, as required under 21 CFR 56.108(b)(3).[21] In addition, sponsors must report to FDA and all reviewing IRBs and participating investigators any instances of IRB withdrawal of approval of an investigation or a part of an investigation within 5 working days after receipt of the withdrawal of approval (for device studies),[22] and must report to FDA the discontinuance of a clinical investigation (for drug/biologic studies).[23]

(4) Conducting a review by the receiving IRB, where appropriate, before it accepts responsibility for the study(ies).

Because the regulations do not address transfer of IRB oversight, it is left to the receiving IRB to decide whether to conduct a review of the clinical investigation prior to the next continuing review date established by the original IRB.[24] In practice, however, IRBs often choose to perform some type of review before accepting responsibility for a study, as part of their own due diligence efforts.

A number of options are available to the IRB, depending on the circumstances. The receiving IRB may decide to:

- **Undertake an *initial* review,** either by the convened IRB or under an expedited review procedure, if appropriate. Review by the receiving IRB is strongly recommended where the quality of the review by the original IRB may be questionable, for example, where the transfer occurs because of noncompliance by the original IRB, as reflected in an FDA Warning Letter to that IRB. In addition, the receiving IRB should also consider conducting an initial review for higher risk studies, such as those involving an exception from the informed consent requirements under 21 CFR 50.24, unapproved therapies with a high risk of morbidity and/or mortality, novel therapies including new cellular or gene therapies, and those flagged by the original IRB for more frequent review. The receiving IRB may also decide to conduct an initial review if, for example, the IRB believes that there may be local issues that would warrant its review. Initial review should also be considered where the receiving IRB has no familiarity with the original IRB, such that it may not be comfortable wholly relying on the original IRB's review and approval.
- **Undertake a *continuing* review at the time of transfer,** either by the convened IRB or under an expedited review procedure, if appropriate**.** Continuing review may be appropriate when the receiving IRB already has responsibility for a site in a multi-site

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approval, you may refer to FDA's guidance, "IRB Continuing Review after Clinical Investigation Approval," available at: http://www.fda.gov/downloads/RegulatoryInformation/Guidances/UCM294558.pdf.

[21] See "IRB Continuing Review after Clinical Investigation Approval," available at: http://www.fda.gov/downloads/RegulatoryInformation/Guidances/UCM294558.pdf.

[22] 21 CFR 812.150(b)(2).

[23] 21 CFR 312.31(a)(2).

[24] In other contexts, FDA recognizes that one IRB may rely on the review of another qualified IRB to avoid duplication of effort. See 21 CFR 56.114 (Cooperative research).

study (i.e., is familiar with the study because the receiving IRB has already reviewed and approved the study protocol).[25]

- **Not undertake a review until the next continuing review date.** This option may be most appropriate for transfers due to logistical, administrative, or economic reasons. In practice, however, IRBs often choose to perform some sort of informal assessment to ensure that the records appear to be in order and to help prepare for the continuing review when it comes due. Because a request for IRB approval of a protocol or informed consent change may occur even before the continuing review date is due, it is important to note that IRBs must be sufficiently familiar with a study before approving substantive changes to the research or the informed consent document.[26]

FDA reminds receiving IRBs that they have the authority to suspend or terminate approval of research in circumstances, for example, where the clinical investigation is not being conducted in accordance with the receiving IRB's requirements or has been associated with unexpected serious harm to subjects.[27] The receiving IRB must promptly report any suspension or termination of IRB approval, including the reasons for the action, to the clinical investigator, appropriate institutional officials, and FDA.[28]

Sponsors must also report such information to FDA. Sponsors of Investigational New Drug (IND) applications are required under 21 CFR 312.31(a)(2) to report to FDA any information regarding the discontinuation of a clinical investigation in an information amendment to the IND. Sponsors of approved Investigational Device Exemption (IDE) applications are required under 21 CFR 812.150(b)(2) to notify FDA and all reviewing IRBs and participating investigators of any withdrawal of IRB approval of an investigation or a part of an investigation within 5 working days after receipt of the withdrawal.

(5) Confirming or establishing the date for the next continuing review.

If the receiving IRB performs a review at the time of clinical investigation transfer (whether an initial or a continuing review), it may choose to maintain the anniversary date of approval established by the original IRB or decide to establish a new anniversary date. If it is decided that a new anniversary date will be established, the new date must be within one year of the receiving IRB's review.

If the receiving IRB does not conduct a review of the clinical investigation at the time of transfer, the date of clinical investigation approval by the original IRB is presumed to remain in effect for the full approval period established at the time of the most recent review by the original IRB. For example, if the original IRB initially approved the clinical investigation for one year effective July 1, 2011, and the clinical investigation is transferred to a new IRB effective October 1, 2011, the expiration date of IRB approval would continue to be July 1, 2012, unless or until

[25] See FDA's guidance, "IRB Continuing Review after Clinical Investigation Approval," available at: http://www.fda.gov/downloads/RegulatoryInformation/Guidances/UCM294558.pdf.
[26] 21 CFR 56.111(a)(1)-(2) and 21 CFR 56.107(a).
[27] 21 CFR 56.113.
[28] Ibid.

the receiving IRB establishes a new expiration date (which it would need to accomplish prior to the July 1, 2012 expiration date).

(6) Determining whether the consent form needs to be revised.

Under 21 CFR 50.25(a)(7), the informed consent document is required to contain "[a]n explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research-related injury to the subject." Therefore, when a change in IRB oversight results in changes in the contact information regarding subject rights and/or whom to contact in the event of research-related injury, the new contact information must be provided to subjects.[29] For subjects who were previously enrolled, this may be accomplished in a number of ways, for example, with a postcard providing the relevant contact information. For new subjects, the informed consent, assent, and/or parental permission form must be revised to reflect the new contact information.[30] The clinical investigator should promptly notify the IRB of any such administrative changes to the consent form.

Other changes to the consent form may also be necessary, for example, if the receiving IRB requires modifications to the consent form at the site(s) under its jurisdiction as a condition of approval (e.g., changes in template language, changes in risks, etc.).[31] Depending upon the types of changes needed, they may be conveyed to the clinical investigator and sponsor as required modifications to secure IRB approval for the clinical investigation at that site or sites and may require reporting to FDA.[32]

(7) Notifying the key parties.

As discussed above, all key parties involved in the transfer of oversight (e.g., clinical investigator, sponsor, original/receiving IRBs) should discuss their respective responsibilities before implementing the transfer. In addition, the sponsor should notify pertinent entities involved in the clinical investigation (e.g., institutional members, Data Safety Monitoring Board, CRO), as and when appropriate. After IRB transfer of oversight for the clinical investigation is complete, the sponsor must update the associated IND[33] or IDE[34] with the name and contact information of the receiving IRB, and should include the effective date of transfer.

(8) Updating IRB registration information.

The IRB registration rule at 21 CFR 56.106(e) requires that any IRB that decides to review FDA-regulated research involving new types of FDA-regulated products, or decides to discontinue reviewing FDA-regulated research, must revise its registration within 30 days of the change in product type review or permanent cessation of the IRB's review of research. A receiving IRB

[29] 21 CFR 50.25(a)(7).
[30] Ibid.
[31] 21 CFR 56.109(a) and (b).
[32] See, e.g., 21 CFR 56.109(a), 21 CFR 312.31, and 21 CFR 812.35.
[33] 21 CFR 312.31(a).
[34] 21 CFR 812.35(a)(4).

may therefore need to revise its registration if it previously did not review clinical investigations of FDA-regulated products or if it will assume the review for a new type of FDA-regulated product upon the acceptance of clinical investigations from an original IRB (e.g., the receiving IRB will now review clinical investigations of medical devices, whereas the IRB previously reviewed only clinical investigations of drugs). Similarly, the original IRB may need to update its registration information if it will no longer be reviewing a certain type of FDA-regulated product, will no longer be reviewing FDA-regulated research, or plans to disband. IRBs must revise their registration within 30 days of any such changes and may do so electronically through *http://ohrp.cit.nih.gov/efile*.[35]

IV. SPECIAL SITUATIONS

A. Transfer of IRB Oversight between Two IRBs in the Same Institution and Temporary Transfer of IRB Review Responsibility

Transfers of oversight may also occur between two IRBs that operate within the same institution for logistical, administrative, and/or budgeting reasons (e.g., consolidating IRB workload). In other cases, for example, when the transfer of oversight to another IRB occurs because a natural disaster disrupted the functioning of the original IRB, the transfer is only temporary because responsibility for IRB review will eventually revert back to the original IRB.

Under either of these circumstances, the transfer process is generally expected to be simpler and more expeditious than the transfers described above in Section III as not all eight steps may be applicable. For example, when oversight is transferred between IRBs at the same institution, the receiving IRB may decide not to conduct an initial or continuing review prior to the next continuing review date established by the original IRB, as such review may not be expected to substantively add to human subject protection. However, as in all scenarios described in this draft guidance document, the appropriate steps to effectuate oversight transfer will depend on the specific circumstances of the transfer, including the reasons for the transfer and the risk posed by the study. The guidance provided in Section III for institution-to-institution transfers may be useful for within-institution transfers.

B. Transfer of a Clinical Investigation to a New Research Site Requiring IRB Review

A sponsor may decide to transfer a clinical investigation to a different research site (e.g., when a clinical investigator relocates to that new site). Because the transfer involves changes to the research (i.e., conducting the research in a new location, consent form revisions, possible changes of key staff, etc.), a protocol amendment must be submitted to

[35] IRBs that lack the ability to access the electronic registration system may send revisions, in writing, to the Office of Good Clinical Practice, Office of Special Medical Programs, Food and Drug Administration, 10903 New Hampshire Avenue, WO32-5103, Silver Spring, MD 20993-002.

the IRB for review and approval.[36] In many cases, this amendment represents a "minor change" to the research that the IRB may review under an expedited review procedure.[37]

Such a move between research sites may or may not entail changing the IRB. If the reviewing IRB changes as a result, then the considerations described in Section III apply, except initial or continuing IRB review must be conducted (an IRB may not approve a change in research without first conducting an initial or continuing review).[38]

FDA notes that, even if the IRB remains the same when a study is transferred to a new research site, IRB review/approval for the new research site is required, because such a move is considered a change in previously approved research.[39] Additionally, the sponsor must notify FDA of any change in research site, clinical investigator, and/or IRB. For drug or biologics studies, this notification can generally be accomplished through an IND protocol or information amendment, whereas for device studies it can generally be accomplished in an IDE annual report.[40]

V. ADDITIONAL QUESTIONS ABOUT TRANSFERRING OVERSIGHT OF A CLINICAL INVESTIGATION

Occasionally, during the course of its initial or continuing review of a transferred clinical investigation or at other times during oversight transfer, an original or receiving IRB may have questions that are not resolvable through communications with the sponsor or clinical investigator. In such situations, either IRB may contact FDA for additional guidance. Affected sponsors and clinical investigators may also contact FDA in these situations. Please use the following as an initial point of contact:

- Center for Biologics Evaluation and Research (CBER) - Bioresearch Monitoring Branch, Division of Inspections and Surveillance, Office of Compliance and Biologics Quality
  - Phone: (301) 827-6221
  - Email: industry.biologics@fda.gov
- Center for Drug Evaluation and Research (CDER) - Office of Scientific Investigations, Office of Compliance
  - Phone: (301) 796-3150
  - Email: cder-osi@fda.hhs.gov

[36] 21 CFR 56.108(a)(4).
[37] 21 CFR 56.110(b)(2).
[38] See 21 CFR 56.103(a), 21 CFR 56.108(a)(4), and 21 CFR 56.110(b)(2). There is an exception to this general requirement: changes necessary to eliminate apparent immediate hazards to human subjects may be initiated without IRB review and approval, as described in 21 CFR 56.108(a)(4).
[39] Ibid.
[40] See 21 CFR 312.30, 21 CFR 312.31, 21 CFR 812.35, and 21 CFR 812.150(b)(5).

- Center for Devices and Radiological Health (CDRH) - Division of Bioresearch Monitoring, Office of Compliance
  - Phone: (301) 796-5640
  - Email: bimo@cdrh.fda.gov

If you have specific questions about how to interpret this guidance, please contact FDA by phone at (301) 796-8340 or by e-mail at gcp.questions@fda.hhs.gov.