

**Systemwide IRB Directors Meeting
July 9 & 10, 2008
CSU East Bay Conference & Training Center, Oakland
SUMMARY**

The Systemwide IRB Directors meeting was held on July 9 & 10, 2008 in Oakland.

Wednesday July 9, 2008

I. IRB Cooperation MOU

Participants discussed the IRB Cooperation MOU which allows a single campus IRB to be the IRB of record for multi-campus research.

- a. Disclosable Financial Interest by a Study Member – Participants discussed how to handle a study in which the principal investigator or a study team member is subject to a financial interest management plan that requires the interest to be disclosed in the informed consent form (ICF). The issue is how the IRB at one campus can be responsible for approval and monitoring of a study in which the COI Committee at another campus has crafted a COI management plan. The Berkeley Lab has decided that if such a disclosure is required, the Lab will not rely on the MOU. It was suggested that the MOU and Notice of Intent to Rely (NOITR) include a provision that if a member of the study team has a financial interest that is subject to a management plan that requires disclosure in the ICF, the MOU may not be employed for that study.
- b. Webpage and Database – There is currently a webpage list of studies operating under the MOU; the list is administered by and is on the website of the UCOP Office of Research, at http://www.ucop.edu/research/irb_review_of_multi-campus_ucresearch.html. It was suggested that, rather than the OP Office of Research entering the data, campuses enter information onto the UCOP webpage. Participants asked that the list reflect the expiration date of the studies. Participants also said that they would like ultimately to have an MOU database that investigators can access, find out what studies are operating under the MOU, and request facilitated review from their campus IRB to join a study.
- c. Full Committee Review – The MOU currently covers expedited and exempt research only. It is the hope that it can be expanded to cover full review research at some point in the near future.

Attendees discussed how to eventually include full review research in the MOU:

- It was suggested that Cancer Center studies that are not reviewed by the NCI CIRB could be candidates for full review studies under the MOU because they undergo scientific merit review as a matter of course.
 - Others suggested that studies being conducted by principal investigators who have joint appointments or professional collaborations would be appropriate for review under the MOU.
 - Still others noted that, under the Medicare National Coverage Decision for Clinical Trials and SB 37, there are different standards for trials deemed to be covered by those provisions which makes billing for these trials complicated. It was suggested that we consider systemwide fMRI studies or federally-funded stroke research studies for full-review under the MOU.
- d. Next Steps – We will continue to operate the MOU for exempt and expedited research only. We'll think about criteria for expanding the agreement to include full review studies. The next iteration of the MOU will include an exclusion for studies with financial interest management plans and will require that investigators on studies operating under the MOU have undergone instruction on human subject protection.

II. IRB Metrics

Mike Caliguri conducted a workflow study of the San Diego IRB's operations and specifically the factors that affect the length of time from initial submission to final approval. Mike's study is the first step in an effort to establish common metrics for UC IRBs to support resource requests and respond to queries about IRB operations. He determined that the chief factors that affect time-to-approval are the funding source (commercially funded studies take longer to review), and committee variability (leadership of and expertise on the panel). He also determined that, on average, and once the initial application is submitted, studies spend about the same amount of time with the PI as they do with the IRB. Mike noted that the workflow study helped him identify where problems lie in time-to-approval at the UCSD IRB and where to focus efforts to improve workflow.

III. School of Global Health

Ellen Switkes described the UC School of Global Health, a new systemwide school that will call on the resources and expertise of faculty at most UC campuses. Ellen is the Coordinator of Planning for the SGH, she asked for input from the IRB Directors on best practices for review of human research at the SGH.

Attendees had the following comments:

- SGH human subject research is eligible to operate under the IRB Cooperation MOU.
- Human subject research at the SGH should undergo, prior to IRB submission, both scientific merit review to determine valid study design and scientific soundness, and feasibility review, particularly for studies being conducted overseas, to determine that the study is feasible in the location where it is proposed to be conducted.
- The SGH should formulate ethical principles concerning the conduct of human subject research in foreign countries.
- The SGH should provide training and require investigators to be trained on how to conduct research in other countries. The training could be conducted or designed by campus social scientists and cultural anthropologists with expertise on cultural awareness.
- The SGH should consider bringing to UC investigators from overseas research sites who will be conducting or assisting with UC studies so they can learn about subject protection rules, IRBs, study coordination, research and funding administration, and other useful information on how to run a research study.

IV. IRB Director Retention

Attendees discussed the issues that affect the retention of IRB Directors and staff.

- The medical campuses should have comparable pay scales for IRB Directors and staff.
- Budget and staffing authority should reside with the IRB Director, those functions should not be performed by others.
- There has to be campus support for the proposition that it's not just the job of the IRB to protect subjects, but that all faculty and all investigators are responsible for and aware of the importance of compliance in this area.
- Directors and staff are not being paid what they are worth. Audits of human research protection programs (HRPPs) reflect this, and audit reports should be relied on when IRB Directors request additional staff and resources from campus leadership.
- The Environmental Health & Safety Directors were dealing with similar issues of under-compensation. They decided to share salary information in order to bolster their positions for better compensation. They also charted the growth of their programs and responsibilities, and compared FTE and resource information in relation to program growth.
- The bottom line for campus leadership is how much risk they are willing to take. If the HRPP is operating well enough, and time-to-approval is acceptable, and research is being approved, improving the HRPP to avoid staff burnout or to improve operations is not a high priority.

Thursday July 10, 2008

I. Report on Clinical Trial Negotiators Meeting, June 26, 2008

Rebecca Landes and Pat Schlesinger reported on the June 26, 2008 Clinical Trial Negotiators meeting convened by Dianne Archer, Coordinator of Private Contracts & Grants in the UCOP Research Administration Office. The focus of the meeting was subject injury contract clauses; the main speaker was Joan Polacheck, an attorney with McDermott Will & Emery in Chicago. Ms. Polacheck attended by phone and discussed the Medicare Secondary Payer Rule (MSP), the Medicare Expansion Act of 2007 (MEA), and negotiation strategies for covering subject injury in sponsored research. The MSP provides that, if someone obligates themselves to pay for medical care, they must be billed before Medicare is billed. The MEA requires among its provisions that insurers disclose whether benefits claimants are Medicare beneficiaries and report the identity of the beneficiary to the Centers for Medicare & Medicaid Services (CMS). Both of these policies are relied on by clinical trial sponsors to decline to cover subject injury. Ms. Polacheck explained how to overcome sponsor objections.

The Clinical Trial Negotiators reported that, in drug trials, negotiating the subject injury clause with industry sponsors is not as much of a problem as it used to be. In device trials, however, sponsors routinely object to UC's injury policy and even decline to sponsor research at UC because of it. In all contracts the most challenging negotiating issues involve intellectual property, ownership of data, and access to data.

Comments by attendees:

- Post-marketing device trials are challenging in part because of the difficulty of distinguishing between standard of care and research, particularly when the device is already implanted. These trials raise explanation issues as well.
- The device may be experimental but the procedure to implant may be standard of care. Consider separating the device from the implantation procedure when negotiating clinical device trial agreements.
- The U.S. Supreme Court recently issued an opinion in a case involving Medtronic, one of the largest medical device manufacturers. An individual sued Medtronic under state law for injuries suffered from a malfunctioning device. The court held that, if federal regulators approved a device, state law cannot be grounds for a suit. Congress is considering a bill to counter the Court's decision.

II. Media Consent

Campuses asked for guidance on media consent and press releases. The issues are:

- ◆ Press Releases by Investigators as Recruitment Tool – Sometimes investigators issue press releases to announce positive study results. The announcement often serves as a recruitment tool and, when it does, should be reviewed by the IRB. Some campuses already require press releases on human subject research to be reviewed and approved by the IRB. Such reviews can reveal inaccurate and inflated language that misstate study benefits.
- ◆ Subject Consent to be Interviewed – Sometimes subjects are asked to be interviewed by a media outlet in connection with a study. Some campuses have media interview consent forms so that the subject is advised that, in the event they are interviewed, their privacy cannot be protected and confidentiality of their image or personal information cannot be maintained. UCLA's media interview consent form can be found at <http://www.oprs.ucla.edu/human/forms/interview-requests>.
- ◆ Press Releases in Sponsored Research – Most sponsored research contracts include a provision requiring media announcements and press releases to undergo sponsor review and approval. If an investigator plans to issue a press release or other media announcement, **the contracting office should be alerted so that any contractual restrictions can be confirmed and complied with.**

III. Use of Google Health to Access Medical Records

Some investigators would like to ask subjects to use Google Health, a service that allows the user to gather all their medical records in one place and authorize disclosure to designated entities. The subject would authorize the investigator as a designated entity; the intent is to gain access to health records without going through medical records departments disclosure processes.

Participants agreed that the use of Google Health to obtain access to a subject's medical records should not be approved by an IRB. Although Google promises full confidentiality of data, systems can be breached and medical records can be accessed by unauthorized entities. In addition, Google is not subject to HIPAA and its protections. The use of Google Health for UC research could lead to misuse of data and liability issues for UC.

IV. Guidance Issues

The UCOP Office of Research & Graduate Studies (ORGS) has prepared three guidance documents, two pertaining to informed consent form (ICF) disclosures, the third pertaining to checking the box on the federalwide assurance (FWA).

◆ Use of Specimens Disclosure in the Consent Form

ORGS has drafted language for UC ICFs that advises the subject that specimens taken during research and products developed from those specimens are the property of UC, pursuant to Moore v. Regents. Participants noted that Western IRB, which reviews some studies for UCLA, objects to the language on the grounds that it is exculpatory. This despite OHRP's statement that Moore is binding legal authority in California. http://www.hhs.gov/ohrp/irb/irb_chapter5ii.htm

◆ Financial Interest Disclosure in the Consent Form

ORGS introduced draft guidance on disclosure of individual and certain institutional financial interests. Participants were pleased with the disclosure language for individual financial interests and agreed that institutional interests should be disclosed as well. It was noted, however, that information on UC's financial interests is not easily accessible and is time consuming to obtain. It is not clear who would conduct this function and how they would go about it. ORGS will look into how information on UC's equity and licensing interests can be obtained for ICF disclosure.

◆ FWA – Unchecking the Box

ORGS drafted guidance on the issues presented by unchecking the box on the FWA that commits the institution to apply the Common Rule and/or its subparts to non-federally funded research. The guidance notes that the Contract & Grant Manual would have to be revised in order for campuses to uncheck the box because the C&G Manual currently requires campuses to certify in their FWA that they will "protect the rights and welfare of human subjects of research conducted at or sponsored by the institution, regardless of source of funding."

<http://www.ucop.edu/raohome/cgmanual/chap18.html#18-200>

Participants voiced the following comments:

- Some stated strong opposition to unchecking the box on the grounds that such a move would create a two-tier, separate and unequal protection system based on funding source. They noted that without a robust and externally visible protection program for non-federally funded research, the campus that does not check the box runs a serious risk of losing public trust if a subject is injured or some other negative event occurs.
- It was noted that the campus that does not check the box should have a clear process for reporting serious or unanticipated events to the Institutional Official and Chancellor or designee.
- It was suggested that serious or unanticipated events also be reported to the Office of the President. Several opposed this. Some felt that a report to the systemwide office is necessary to make sure that post-event responses are appropriate, others felt that it is a campus only issue and should remain so.

V. IRB and COI Coordination

Under AAHRPP accreditation requirements, financial interest review and COI management plans for investigators and other research team members must undergo IRB review and approval. Participants discussed this requirement:

- In order to meet the AAHRPP requirement of IRB review of COI management plans, financial interest review should be conducted and completed prior to final IRB review, causing calendaring challenges where IRBs meet more frequently than COI Committees. Also the requirement puts the IRB in the role of gatekeeper, or "delay portal," for all approvals before the research can begin.
- Some attendees approved AAHRPP's requirement, noting that some management plans can increase risk to subjects, e.g., a management plan that requires someone other than the PI to conduct a medical procedure when the PI is the most qualified individual to do it.

VI. Infectious Diseases Emergencies Research

Professor Alan Barbour of UCI and Dr. Michael Ascher of UCD spoke to the group about IRB review for research in infectious disease emergencies. Professor Barbour, who attended by phone, is the Director of the Pacific Southwest Regional Center of Excellence (PSW RCE), Dr. Ascher is the Associate Director for Emergency Preparedness & Response at the Regional Center. The PSW RCE is a multi-disciplinary UC entity that, among other things, works on surge capacity for public health agencies in the event of a biodefense emergency and conducts collaborative research on infectious diseases for biodefense and public health. The issue presented was the need for rapid IRB review in the event of a national biodefense emergency. Dr. Ascher explained that, in the event of such an emergency, the Center would be collecting biological specimens for testing and analysis; he asked for input on establishing a template or consensus protocol for research on specimens that resembles pre-approval of research. He noted that, during the SARS epidemic, time lost waiting for regulatory approvals was disastrous to the effort to understand and handle the situation.

Participants provided input on ways to ensure rapid regulatory approval, noting that the use of coded samples would be the optimum method for expedited review. Also OHRP issued guidance in 2004 on research involving coded private information or biological specimens.

VII. Regulatory Communications with Campuses

Campuses reported on communications with regulatory agencies. UC Berkeley has been advised that OHRP will conduct a site visit within two years. San Francisco reported that, when the campus sent meeting minutes to OHRP in connection with an inquiry about a specific study, the agency expanded its inquiry to include other studies discussed at the meeting and referenced in the minutes. Campuses were cautioned to redact materials, such as minutes, submitted to OHRP so that the agency does not expand its investigations to unrelated matters.

VIII. OHRP Notice – Guidance or Regulation re Subject Protection Training

On July 2, 2008 OHRP issued a request for public comment on the implementation of human subject protection training. The agency asked whether it ought to issue guidance or regulations that institutions engaged in human subject research conducted or supported by the Department of Health and Human Services implement training and education programs on subject protection for individuals involved in the conduct, review, or oversight of human subjects research.

Participants had the following comments:

- UC should have a systemwide policy or consensus statement concerning training on subject protection rules for individuals involved in the conduct, review, or oversight of human subject research. Such a position would counter regulatory efforts to impose subject protection training requirements.
- Even if there is a campus or systemwide policy or rule that investigators be trained on subject protection, there are investigators who will refuse to be trained if there is no regulatory requirement to do so.

IX. California Department of Public Health – Checklist for Stem Cell Research

Ellen Auriti reported on guidance issued by the Human Stem Cell Research Program at the California Department of Public Health that clarifies when IRB or SCRO review is required for human stem cell research.

X. Use of External IRBs

UCLA is the only UC IRB using a commercial external IRB, Western IRB. The impetus to use an outside IRB came from faculty frustrated with time-to-approval waits. WIRB reviews Phase III commercially sponsored clinical trials only. To date, 11 trials have been submitted to WIRB, two were withdrawn and two were denied approval. The UCLA's Clinical Trials Office handles WIRB submissions, the Office for the Protection of Research Subjects (UCLA's HRPP) is not involved.

XI. Accreditation Updates

- **UC Irvine** – Irvine was initially accredited in the fall of 2005, it had its triannual renewal site visit in April this year. Issues highlighted included coordination of IRB and COI review, and reps and certs in clinical trial agreements concerning compliance with subject protection rules.
- **UCLA** – LA had its initial accreditation site visit in December of last year. Judy noted that AAHRPP is looking for a sense that the entire campus, and not just a single office, takes responsibility for subject protection compliance.
- **UC Riverside** – Riverside submitted a preliminary application in December of last year, the campus is now awaiting a site visit date.
- **UC San Diego** – UC San Diego is accredited as the IRB of record for the San Diego VA Healthcare System. As a result of the AAHRPP site visit to the VA in June '07, which found inadequate staffing, the VA now funds 2 FTEs to the UC San Diego IRB.
- **UCSF** – UCSF was initially accredited in 2005 and underwent a site visit for its triannual renewal in May of this year. The site visitors spoke to about 100 people in three days. Issues that came up included coordination of IRB and COI review, and requiring an IRB member, not a staff person, to conduct the grant to application comparison. Sharon noted that AAHRPP is very fond of checklists and recommended that IRBs review their program's checklists prior to accreditation visits.

END OF SUMMARY