2019 IRB Training Update and Informed Consent 2.0

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Review: Principles and History

- Belmont Report, 1979
  - National Research Act, 1974 - National Commission of the Protection of Human Subjects of Biomedical and Behavioral Research
- Basic Principles of Biomedical Research Ethics
  - Respect for Persons (autonomy, 2 aspects)
  - Beneficence (minimize harm, maximize benefit)
  - Justice (fairness in distribution of benefit and risk)

Review: Principles and Basis

- Common Rule, 1991, revised 2017-2018
- LAC Board of Supervisors, 1999
  - –HIVNet
  - –Lack of community sensitivity and engagement
  - –Institutional Review Board (IRB) and Research Oversight Committee

What is the IRB?

- Oversight entity housed in DPH
- Board made up of 13 people
  - Minimum 5 members
  - Diverse across race, gender, cultural background
  - Scientist, non-scientist
  - Not affiliated with institution (community members)
  - Prison advocate

- Meets once a month, every fourth Thursday

By law, the IRB functions to ensure:

- Risks to subjects are minimized by having procedures posing no unnecessary risk
- Risks, if any, are reasonable re: benefits/importance
- Selection of subjects is equitable
- Informed consent will be obtained and documented
  - (Or waived/altered by IRB if criteria are met)
- Privacy of subjects protected and confidentiality of data maintained
- Appropriate additional safeguards to protect rights and welfare of subjects from vulnerable groups
- Assure compliance with regulations

Our IRB Goes Beyond the Minimum

- **We broaden ethical principles to include**:
  - Community, not just individual rights, community perspective
  - Community engagement and accountability
  - Utility. How will results be used, applied, shared?
  - Appropriateness of design and methods
    - Is the question important?
    - Do methods match the question?
    - Is recruitment/selection representative of our populations?
  - Promotion of health equity/reduction of disparities

- **Ethical review required not only of research, but other related activities**

The IRB will ask …

- Why is the project and its question(s) important to public health?
- Are the methods clearly described and appropriate to the question and is the study team capable of carrying them out?
- Are consent procedures clear and adequate?
- Are forms and instruments clear, intelligent, sensitive and at appropriate literacy level?
- Is personally identifying information minimized and is each item necessary and justifiable?
- Are data confidentiality protections adequate?
- Have potential risks been thought through and minimized, including to vulnerable populations?
- How have and will community be involved in the project?
- How will the results be communicated and used?

Who Does Our IRB Serve?

- Covers DPH, Ambulatory Care Network (ACN), Health Services Administration (HSA) and Correctional Health Services
  - DHS hospitals have separate IRBs, mostly for biomedical research. We primarily see applications for social and behavioral research and secondary data analysis
- ACN may require additional steps
  - Please contact Laura Sklaroff for guidance: Lsklaroff@dhs.lacounty.gov
- IRB of record for community-based organizations and another health department (MOU)
  - Bienestar
  - LALGBT Center
  - Pasadena Public Health Department (MOU)

What is "Research?"

- **Federal regulatory definition §46.102(l):** "A systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge."
- Many problems in practice with applying this definition
  - Who decides if research or not?
  - Shouldn't ethical standards/review apply even if a project is **not** technically research?
  - Can projects be partly research and partly not?

Does it matter if it's research or not?

- Exempt categories for research and "non-research"
- Yes, but only in **how** regulations apply
- For research (including generalizable program evaluation) ***all federal regulations apply***
- For exempt projects (both non-research and certain categories of exempt research) all **ethical principles and spirit of federal regulations apply, but more flexibility in how they are concretely applied**

Policy on IRB Submission

- ***Any project involving collection or analysis of data from or about individuals, whether "research" or not***
- Needs IRB review and at least determination of exemption from full IRB review
- A project = anything involving staff, facilities, clients, patients, funding, databases from DPH, DHS, et al.

Submission Policy, cont.

- **Exceptions** (no submission required at all; “exempt exempt”):
  - Does not involve humans (e.g. animals only, some lab studies);
  - Legally mandated reporting/surveillance;
  - Information collected/charted as part of **clinical care;**
  - Anonymous meeting evaluations;
  - Authorized operational activities in support of criminal justice or criminal investigative activities
  - Activities in support of defense/national security
  - Other categories may be added over time
- **The best policy is to ask via e-mail or phone call if you are not sure... AND never assume that a past determination by the IRB will automatically apply to a new project**

Step 1: Is it exempt as non-research?

- Is it routine, standard-practice public health activity, i.e. no innovations or new twists?
- Is it standard QA/QI activity?
- Is it internal program evaluation or needs assessment intended only for program monitoring, improvement, etc.?

Step 1: Is it exempt as non-research? (cont.)

- **If YES to any of the previous categories,**

  -AND-

- **if NO to** "Is the project intended in whole or in part to generate new, generalizable knowledge?" … go to **Step 2**
- **Otherwise,** go to **Step 3**, or call/write IRB

Step 2: Exempt as Non-Research Application

- Requires a short-form application and requires an IRB approval letter before you begin
- Does not require written informed consent document but does require an “effective” consent
- May have easier time gaining cooperation from outside partners/sources of data
- Does not require annual renewal (aka “continuing review”) unless stated and justified at time of approval
- Requires annual report and notification of any changes

Step 2: Exempt as Non-Research Application (cont.)

- Application for Exempt Review, including the signature page
- Request for Exempt Review
- Protocol: Why doing it? How doing it (data to be collected or analyzed and method)? How will you obtain effective informed consent? How results will be used/shared?'
- Data collection instruments, scripts, recruitment materials
- HIPAA authorization or waiver if applicable
- Certificate(s) for IRB training (this course) or other human subjects protection training (CITI training, etc.)

Step 2: Exempt as Non-Research Application (cont.)

- Race/ethnicity data collection guidelines per Chief Science Office Standard of Practice CSO-002
- Stay tuned for sexual orientation and gender identity data collection guidelines

A Note on Surveys

- Per 2019 DPH Policy 117, all surveys must be reviewed by Office of Health Assessment and Epidemiology (OHAE) Rapid Assessment, Training and Evaluation Unit (RATE)
  1. Program submits survey to OHAE-RATE (email to: Dr. Lisa Smith lismith@ph.lacounty.gov)
  2. OHAE-RATE reviews and formats surveys
  3. OHAE-RATE returns survey to program to resolve edits; Steps 2 and 3 can be iterative if there are many edits to incorporate/resolve
  4. Program returns revised survey to OHAE-RATE
  5. OHAE-RATE compiles the edits for program
  6. Program reviews final draft
  7. OHAE-RATE determines who will distribute and collect surveys, prepare codebooks and enter, analyze and tabulate data in order to prepare protocol detail
  8. Program sends IRB documents to OHAE-RATE
  9. OHAE-RATE compiles IRB application and forwards document to IRB
  10. Once OHAE-RATE receives IRB approval letter, surveys are pre-numbered and printed. Programs and/or OHAE-RATE will administer surveys and analyze data in accordance with the project's approved IRB protocol

Step 3: Research of an Exempt Type

- Okay, it does not qualify as non-research, but:
  - Is it interview-based research **that does not deal with sensitive subjects that would pose risk for respondents if it became known?**
  - Is it observation of public behavior?
  - Is it a study of previously collected data or records (if publicly available or recorded in de-identified manner)?
- **If yes to any of above,** stay on Step 3.
- **If no to all,** go to Step 4.

Step 3: Research of an Exempt Type (cont.)

- Similar to "exempt as non-research" except requires either **written consent or application for a waiver**, and cannot claim it is not research
- Does not require annual renewal (aka "continuing review"), but does require annual report and notification of any changes, including to data collection instruments

Make sure that even an exempt application contains:

- How will the results be used and shared?
- Who will be recruited, selected to participate? (Or whose records, etc.)
- Clear explanation of the methods, to collect data and to analyze/summarize it
- Appropriate consent or request for waiver
- Protection of privacy, confidentiality
- Equitable selection or participation of subjects

Other inclusions

- MOUs or agreements/permissions with partners
- Budget
- Anything that would help us understand the project and why you believe it is exempt

Step 4: Expedited Review

- Does your project involve survey/interview-type methods that include sensitive topics?
- Does the project involve previously collected data or records, but is not totally de-identified (e.g. you might need addresses for geo-coding or names/SSNs for cross referencing)?
- Is it **minimal-risk research** in another category?
- **If Yes,** submit expedited review application
- **If No,** submit full board review application (Step 5)

What is Minimal Risk?

- According to the federal regulations at **§46.102(j)**, *minimal risk* means that the probability **and** magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

Expedited Review Categories

1 Clinical studies of drugs and medical devices only when certain conditions are met

2 Collection of blood samples by finger stick, heel stick, ear stick, or venipuncture in certain populations and within certain amounts

3 Prospective collection of biological specimens for research purposes by noninvasive means

4 Collection of data through noninvasive procedures (not involving general anesthesia or sedation) routinely employed in clinical practice, excluding procedures involving x-rays or microwaves

Expedited Review Categories, (cont.)

5 Research involving materials (data, documents, records, or specimens) that have been collected, or will be collected solely for non-research purposes

6 Collection of data from voice, video, digital, or image recordings made for research purposes

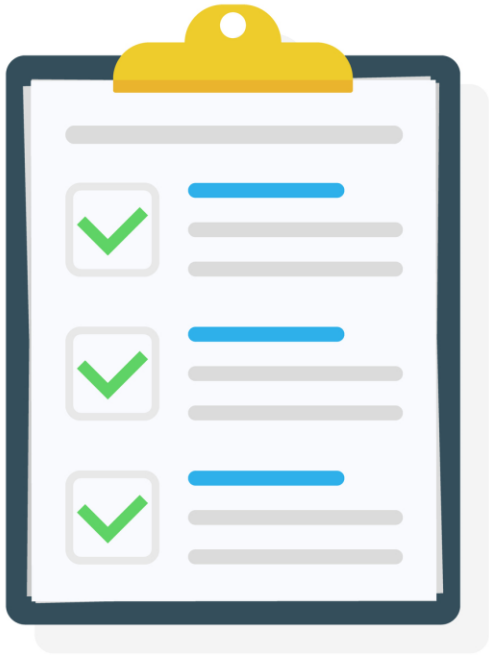
7 Research on individual or group characteristics or behavior or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies

Expedited Review: Continuing Research

- Continuing review of research previously approved by the convened IRB (Full Board review) as follows:
  - Remaining research activities are limited to data analysis
- Continuing review of research, not conducted under an investigational new drug application or investigational device exemption where categories two (2) through eight (8) do not apply but the IRB has determined and documented at convened meeting that the research involves no greater than minimal risk and no additional risks have been identified

Step 4: Expedited Review (cont.)

- All items on the IRB checklist required unless non applicable, e.g., informed consent N/A if eligible for waiver
- Must be “minimal risk”
  - One of the expedited categories
    - On-going data analysis only
    - Minor revisions
- Expedited review and approval can be given by Chair or Vice Chair, without waiting for monthly IRB meeting



Step 5: Full Board review applications

- Does it fit into steps 1-4?
- Application is the same as for expedited
  - All items on the IRB checklist unless not applicable
  - Written informed consent or waiver if eligible
- Full board covers studies that pose “more than minimal risk”

HIPAA Privacy Rule

- What is HIPAA?
  - Health Insurance Portability and Accountability Act of 1996
- When does HIPAA apply?
  - PHI: protected health information
  - Any of 18 types of demographic identifiers or health care delivery information, including ZIP code.
  - Any PHI collected or transmitted in any form by a "covered entity"
  - Applies to all data collection activities (exempt as non-research or research of an exempt type)

Protected Health Information, for your reference

- Names
- All geographical subdivisions smaller than a State, including zip code
- All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older
- Phone numbers
- Fax numbers
- Electronic mail addresses
- Social Security numbers
- Medical record numbers
- Health plan beneficiary numbers
- Account numbers
- Certificate/license numbers
- Vehicle identifiers and serial numbers, including license plate numbers
- Device identifiers and serial numbers
- Web Universal Resource Locators (URLs)
- Internet Protocol (IP) address numbers
- Biometric identifiers, including finger and voice prints
- Full face photographic images and any comparable images
- Any other unique identifying number, characteristic, or code (note this does not mean the unique code assigned by the investigator to code the data)

Two Ways to Comply with HIPAA

- Individual Authorization for Disclosure of PHI (see form and instructions on website)
- Waiver or Alteration of HIPAA Individual Authorization (see form and instructions)
- Usually preferable to get authorization together with or as part of informed consent for "major" research studies
- HIPAA training – either this training or online training required every 3 years for PI and key research personnel who work with data

Types of IRB Action

1. Approval and Classification as Exempt (with type of exemption specified)
2. Full approval for one year
3. Full approval for shorter period
4. Approval with stipulations
5. Tabled until revised or substantial questions answered
6. Rejected

After Approval

- Not over with approval: IRB has responsibility to monitor projects until finally completed
- Must submit any changes for approval before implementing them (even if exempt!)
- Must submit annual progress report and, unless exempt or expedited, request for continuing approval
- Must report any adverse or unexpected events or protocol deviations
- Notify IRB, with final report, when completed

Informed Consent

Let's Review

- Tuskegee Syphilis Experiment, 1932-1972
- Willowbrook Hepatitis Experiments, 1955-1970
- Milgram, 1960s
- What do these have in common?
  - Subjects were unable to consent, unknowingly submitted to disease/experimental interventions and/or denied treatment

Key Terms to Remember

- **Identifiable private information:** Information that an individual can reasonably expect will not be made public through which the identity of the subject may readily be ascertained, e.g., a medical record
  - Also known as sensitive personal information (SPI), personally identifiable information (PII) or personal information
- **Identifiable biospecimen:** A biospecimen for which the identity may be readily ascertained
- **Protected health information (PHI):** Identifiable health information held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral
- **Anonymous:** No identifiable private information or PHI is collected, thus cannot be re-identified
- **Confidential:** Identifiable private information is collected but kept private from public view, stored away from public view, can be de-identified and re-identified
  - Public: Anyone not associated with the data collection for the study

Key Terms to Remember (cont.)

- **Legally authorized representative (LAR)** is an individual or judicial or other body:
  - Authorized by law to consent on behalf of a prospective subject to the subject's participation in the research
- **Vulnerable populations**
  - Subjects in research studies vulnerable to the possibility of coercion or undue influence
    - Pregnant women, prisoners, children
    - Economically disadvantaged populations

Informed Consent, Process vs. Documentation

- What is the difference between process and documentation?
- **Process:**
  - Provide information to prospective subject
  - Engage with subject
- **Documentation:**
  - Documentation that process took place
  - Record of the subject's agreement to take part in the study

Informed Consent, Process

- **Key information summary (less than 1 page)**
- **Concise and focused presentation of essential information most likely assist a subject in:**
  - In understanding the research
  - What is expected of them
  - Potential risks of harm and benefits
- **Followed by detailed consent**

Informed Consent, Process (cont.)

- Must be:
  - Clear, accurate and understandable
  - In preferred language of subject
  - Contain all the basic elements plus the CA Experimental Research Subject's Bill of Rights
- Obtain the voluntary agreement of subjects to take part in the study
  - The agreement is only to enter the study – subjects may at any time
    - Withdraw
    - Decline to answer specific questions
    - Decline to complete specific tasks during the research

Basic Elements of Informed Consent

- Statement that it is research, for what purpose, expected duration, description of the procedures to be followed, identification of any procedures that are experimental
- Description of foreseeable risks/discomforts
- Description of benefits to subject and others
- Disclosure of appropriate alternative procedures or treatments, if any, that might be advantageous to the subject

Basic Elements of Informed Consent (cont.)

- Statement about confidentiality of records
- If more than minimal risk, explanation of any compensation and medical treatments if injured
- Contact person and phone for questions about the research, rights or injury (PI & IRB)
- Statement that participation is entirely voluntary, refusal or withdrawal will not involve penalty or loss of benefits

Basic Elements of Informed Consent (cont.)

- **New in 2019** - One of the following statements about any research that involves the collection of identifiable private information or identifiable biospecimens should be included:
  - That private information may have identifiable information removed and **could be used** for future research studies without additional informed consent, or
  - That the subject's information or biospecimens collected as part of the research, even if identifiers are removed, **will not be used** or distributed for future research studies

Additional Elements of Informed Consent

- Statement that the procedure may involve unforeseeable risks to subject
- Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's or the LAR's consent
- Any additional costs to the subject that may result from participation in the research
- Consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject
  - How compensation will be affected if they choose not to complete an interview
  - Discussion of what happens to data already collected

Additional Elements of Informed Consent (cont.)

- That significant new findings developed during the course of the research may relate to the subject's willingness to continue participation will be provided to the subject
- The approximate number of subjects in the study
- **New in 2019:** That the subject's biospecimens, even if identifiers removed, may be used for commercial profit and whether the subject will share in this profit
- Whether clinically relevant results, including individual research results, will be disclosed to subjects, and under what conditions
- Whether the research will or might include whole genome sequencing

Other Issues Around Consent

- Payment or gifts offered as reimbursements for participation
  - Must not be coercive, unduly influence subjects
  - Must be described during consent process
    - Conditions under which subjects will receive partial or no payment
- Exculpatory language – subjects may not be asked to:
  - Waive or appear to waive any legal rights or
  - Release a researcher, sponsor or institution from liability for negligence

Other Issues Around Consent (cont.)

- Setting and Time
  - Subjects must feel entirely free to choose whether to take part in a research study
    - Adolescents whose parents are in the room
    - Athletes recruited by coach
    - Employees asked to take part by their employer
  - Subjects must be given adequate time to consider participation when study:
    - Involves more than minimal risk
    - Involves sensitive information

Informed Consent Documentation

- Documentation of consent provides a record that the consent took place
  - Consent form signed by the subject or the subject's LAR
  - May be electronic, audio or video recording, as approved by IRB
  - Copy given to subject
- Must contain basic elements and relevant additional elements
- Explicit if research and in spirit if exempt as non-research

When is Written Consent Not Necessary?

- Waived/altered written consent approved in favor of effective consent:
  - Oral consent
    - E.g., Phone surveys
  - Brief, embedded consent at top of survey form
    - E.g., street intercept
  - Study information sheet sometimes required
- Screening, recruitment – **New in 2019:** federal regulations do not require it but we ask for a waiver request of written consent

When is Written Consent Not Necessary? (cont.)

- Conditions (must meet all four):
  1. Research involves no more than minimal risk
  2. Research involving or not involving identifiable private information or identifiable biospecimens, could not be practicably be carried out without the requested waiver or alteration
     - Does not mean time consuming, expensive or inconvenient
     - Means it would not be possible to answer the research question

When is Written Consent Not Necessary? (cont.)

3. Waiver or alteration will not adversely affect the rights and welfare of the subjects
4. When appropriate, the subjects or LAR will be provided with additional pertinent information after participation (debriefing)

Other Conditions for Waiver of Written Consent

- Principal risks are those associated with a breach of confidentiality
    - E.g., Research on women who have left abusive partners
- Subjects are members of a cultural group in which signing forms is not the norm, and the study presents no more than minimal risk of harm
- When requirement for documentation is waived, the IRB may require the researcher to offer the subjects information about the study in writing

Guidelines

- Avoid medical and scientific jargon; instead, use common, everyday language that can be understood by a participant with an 8th grade education
- If a technical term is used, define or explain it in lay language the first time
- Spell out abbreviations or acronyms the first time they are used
- Use short sentences and short paragraphs
- Avoid details that do not help participants make a decision about being in the study

Guidelines (cont.)

- Avoid unnecessary duplication of information
- Use active voice rather than passive voice whenever possible; for example, use “We will draw a blood sample”, not “A sample of blood will be drawn”
- Adjust the margins to be left justified only (“ragged” right margin, not full justification)
- Use bullets for long lists of procedures or risks
- Use subheadings to break up large amounts of text

Okay, what does it mean for our work here?

- Exercise 1 (with a partner or two):
  - What elements are most important to be included in a short verbal or oral consent process?
- Exercise 2 (in groups):
  - Choose one or more of the following studies and decide what type of consent process and documentation (if any) that the studies would require. How long would the consent be? What are some of the key words and phrases you would need to include in the process?

Exercise 2

1. An in-person survey will be conducted among minors in juvenile detention centers about their social service and healthcare needs when they leave the detention centers.
2. Focus groups will be conducted among men who received education regarding HIV prevention and management on internet data sites. The data will be used to evaluate the efficacy of the education with the hopes of publication in a peer-reviewed journal.

Exercise 2: What type of consent is needed? (cont.)

3. Patients in a public health clinic will be surveyed in waiting rooms to find out what their experiences were with rapid STD testing services in the clinic. Data will be used to assess usage rates and improve STD testing services in the clinic.
4. Baseline and follow-up surveys will be conducted to evaluate an intervention among incarcerated men regarding experiences in group educational sessions on HIV prevention. Surveys will be conducted before the first class and after the last class in the classroom where the sessions take place.

Exercise 2: What type of consent is needed? (cont.)

5. In-person surveys following an experimental drug treatment for smoking cessation will be conducted in clinics.
6. On-line surveys will be administered to a population exposed to a mass educational campaign (posters, billboards, television messages) on the dangers of second-hand smoke to evaluate the intervention with potential for publication. Participants will be recruited through advertisements on social media.

Some FAQs and Problem Areas

- Whose signature do I need on the application?
- What's the "DPH/DHS Liaison"?
- What about student, volunteer, intern projects?
- Modifications and changes, even for exempt?
- Budgets … Why? How much detail?

More FAQs

- What happens if we disagree with the IRB's decision or conditions?
- Can an application be submitted online or electronically?
- If we're not collecting names, does it still need IRB oversight?
- HIPAA compliance, including exempt projects
- Single IRB – we are already in transition
- **Expiration dates are drop-dead serious!**

We Like to Help!

- Forms and instructions on the web: http://publichealth.lacounty.gov/irb/
- Call the office: (213) 288-8675
- Write us with questions:
  - Alysia Kwon akwon@ph.lacounty.gov
  - Walt Senterfitt jsenterfitt@ph.lacounty.gov
  - Olga Coronado ocoronado@ph.lacounty.gov
- Available for in-person, email or telephone consultations

Thank you!