

# PROTECTION OF HUMAN SUBJECTS

July 12, 1974- the **National Research Act- Public Law 93-348** created the national Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. (might also be know as the Public Health Service Act)

**Belmont Report-** A statement of ethical principles governing research involving human participants issued by the National Commission for the Protection of Human Subjects in April, 1979

3 foundational principles:

1. Respect for Persons
2. Beneficence - *To do well or to do good*
3. Justice

<http://ohsr.od.nih.gov/guidelines/belmont.html>

**Nuremberg Code-**( <http://ohsr.od.nih.gov/guidelines/nuremberg.html>)

A set of principles for human experimentation set as a result of the Subsequent Nuremberg Trials at the end of the Second World War. Specifically, they were in response to the inhumane Nazi human experimentation carried out during the war by individuals such as Dr. Josef Mengele. The Nuremberg code includes such principles as informed consent and absence of coercion; properly formulated scientific experimentation; and beneficence towards experiment participants. **There are 10 points**

Implementing Regulation: **Title 45- Public Welfare; Part 46 Protection of Human Subjects**

## Common Rule

(see FAQ <http://www.hhs.gov/ohrp/faq.html>)

"Common Rule" refers to 45-CFR-46, the code of federal regulations governing patient protection for research conducted with federal funds ...

[cabig.cancer.gov/resources/glossary.asp](http://cabig.cancer.gov/resources/glossary.asp)

- The 1991 federal regulation that provides the basic procedures and principles that are to be followed in the conduct of human subject research sponsored by federal agencies.  
[www.hss.energy.gov/healthsafety/ohre/roadmap/achre/glossary.html](http://www.hss.energy.gov/healthsafety/ohre/roadmap/achre/glossary.html)
- In 1991, 14 (or 17) other Federal departments and agencies joined the US Department of Health and Human Services in adopting a uniform set of rules for the protection of human subjects of research, identical to subpart A of 45 CFR 46. ...  
[www.ccccd.edu/irb/definitions.html](http://www.ccccd.edu/irb/definitions.html)

*August 19, 1991 45 CFR part 46- Protection of Human Subjects-DHHS-see below for more detail*

*45 CFR Part 690 Federal Policy for the Protection of Human Subjects-NSF*

## FOREIGN COUNTRIES:

June, 1964 **Declaration of Helsinki -World Medical Association**-statement of ethical principles to provide guidance to individuals participating in medical research involving human subjects and includes research involving identifiable data.

**Council for International Organizations of Medical Sciences (CIOMS)**-Officially connected to World Health Organization published *International Ethical Guidelines for Biomedical Research Involving Human Subjects-1982*

**Common Rule 101 & 114**-discuss incorporating Foreign IRB when they exist and what to do when they do not exist. This regulation is primarily applicable to biomedical research as the concept of social and behavioral science review boards is not standard in most foreign countries.

## **Office for Human Research Protections (OHRP) under DHHS**

<http://www.hhs.gov/ohrp/>

### *OHRP Fact Sheet*

The Office for Human Research Protections (OHRP) supports, strengthens and provides leadership to the nation's system for protecting volunteers in research that is conducted or supported by the U.S. Department of Health and Human Services (HHS). OHRP provides clarification and guidance to research institutions, develops educational programs and materials, and promotes innovative approaches to enhancing human subject protections.

To carry out their research mission, nearly 10,000 universities, hospitals, and other research institutions in the U.S. and abroad have formal agreements (assurances) with OHRP to comply with the regulations pertaining to human subject protections.

**Compliance**-OHRP's Division of Compliance Oversight evaluates all written substantive indications of noncompliance with HHS regulations Title 45, Part 46, Code of Federal Regulations (45 CFR part 46). OHRP asks the institution involved to investigate the allegations and to provide OHRP with a written report of its investigation. The Office then determines what, if any, regulatory action needs to be taken to protect human research subjects.

**Education**-OHRP's Division of Education and Development provides guidance to individuals and institutions conducting HHS-supported human subject research; conducts national and regional conferences; participates in professional, academic, and association conferences; and develops and distributes resource materials in an effort to improve protections for human research subjects. OHRP also helps institutions assess and improve their human research protection programs through quality improvement consultations.

**Policy and Assurances**-OHRP's Division of Policy and Assurances prepares policies and guidance documents and interpretations of requirements for human subject protections and disseminates this information to the research community. The Division also administers the assurances of compliance.

**Secretary's Advisory Committee**-The Secretary's Advisory Committee on Human Research Protections (SACHRP) advises the HHS Secretary on issues of human subject protections. OHRP's director serves as the Executive Secretary for SACHRP, and the Office provides technical and logistical support to the Committee.

**International Activities**-From the Office of the Director, OHRP provides training to institutions involved in international research, to help ensure that ethical protections are afforded to those who participate in research outside the United States. The Office also provides quality improvement assurance consultations to international institutions.

September 2005

## **Title 45- Public Welfare; Part 46 Protection of Human Subjects (NIH)**

<http://www.ucop.edu/raohome/certs/45cfr46.html>

### **§46.101 To what does this policy apply?**

Except as provided in paragraph (b) of this section, this policy applies to all research involving human subjects conducted, supported or otherwise subject to regulation by any Federal Department or Agency which takes appropriate administrative action to make the policy applicable to such research. This includes research conducted by Federal civilian employees or military personnel, except that each Department or Agency head may adopt such procedural modifications as may be appropriate from an administrative standpoint. It also includes research conducted, supported, or otherwise subject to regulation by the Federal Government outside the United States.

*exemption*  
**What research categories are exempt?** (does not apply to prisoners, fetuses, pregnant women, or human in vitro fertilization)

- Research conducted in educational settings involving normal educational practices.
- Research involving educational tests unless human subjects are identifiable or disclosure of results could place subjects at risk for criminal or civil liability, etc.
- Research involving the collection of existing data, if sources are publically available and/or subjects cannot be ID.
- Research conducted by or approved by Agency heads to examine its public service programs
- Taste and food quality evaluation and consumer acceptance studies as long as food is deemed to be safe by FDA

UVA requires the determination of exemption to come from the IRB office. Please refer to the UVA website for more information about the exemption process:

<http://www.healthsystem.virginia.edu/internet/hic/general-information/exempt.cfm>

**Expedited Review** process is applicable when:

(A) Research activities that (1) present no more than minimal risk to human subjects, and (2) involve only procedures listed in one or more of the following categories, may be reviewed by the IRB through the expedited review procedure authorized by 45 CFR 46.110 and 21 CFR 56.110. The activities listed should not be deemed to be of minimal risk simply because they are included on this list. Inclusion on this list merely means that the activity is eligible for review through the expedited review procedure when the specific circumstances of the proposed research involve no more than minimal risk to human subjects.

(B) The categories in this list apply regardless of the age of subjects, except as noted.

(C) The expedited review procedure may not be used where identification of the subjects and/or their responses would reasonably place them at risk of criminal or civil liability or be damaging to the subjects= financial standing, employability, insurability, reputation, or be stigmatizing, unless reasonable and appropriate protections will be implemented so that risks related to invasion of privacy and breach of confidentiality are no greater than minimal.

(D) The expedited review procedure may not be used for classified research involving human subjects.

(E) IRBs are reminded that the standard requirements for informed consent (or its waiver, alteration, or exception) apply regardless of the type of review--expedited or convened--utilized by the IRB.

(F) Categories one (1) through seven (7) pertain to both initial and continuing IRB review.

(For additional information visit <http://www.hhs.gov/ohrp/humansubjects/guidance/expedited98.htm>)

#### DEFINITIONS:

**Research** means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

**Human subject** means a living individual about whom an investigator (whether professional or student) conducting research obtains

- data through intervention or interaction with the individual, or
- identifiable private information.
- 

**Vulnerable populations**-Pregnant females, fetuses, human in vitro fertilization, prisoners, the cognitively impaired.

### **NIH Grants Policy Manual in section on Human Subjects requires institutions:**

**1. File an Assurance of Compliance with the Office for Protection from Research Risks (OPRR) who is responsible for approving Assurance (Note: A list of institutions with assurances can be found on website.) Assurances must be renewed every 3 years.**

- MPA-Multiple Project Assurance
- SPA-Single Project Assurance
- CPA-Cooperative Project Assurance
- FWA-Federal Wide Assurance

Note\* Effective 12/31/05 all MPA's & CPA's will be deactivated; SPA's will remain in effect for all non-competitive renewals of existing HHS awards.

The key features of the Federal wide Assurance (FWA) for domestic (U.S.) institutions are the following:

- a) the identifying information for the institution filing the FWA, the Human Protections Administrator (or a reliable point of contact) at the institution, and the institutional official signing the FWA;
- b) a list of the institution's legal components where human subjects research will be conducted (legal components are generally defined as parts of your institution that may be viewed as separate organizations, but remain part of the legal entity or institution, for example, ABC University can list its XYZ University Hospital, KLM School of Public Health, and EFG Institute for International Studies as components);
- c) a statement of ethical principles to be followed in protecting human subjects of research;
- d) an applicability statement indicating that the institution commits to comply with the Terms of the FWA for Institutions within the United States (see section A of the Terms of the FWA at <http://www.hhs.gov/ohrp/humansubjects/assurance/filasurt.htm>) for all federally conducted or supported human subjects research covered by the FWA; the institution also may voluntarily extend the Common Rule or 45 CFR part 46 to all research regardless of the source of support;
- e) the designation of one or more IRBs that will review the research covered by the FWA (these IRBs must be registered [<http://www.hhs.gov/ohrp/assurances/index.html#registernew>] with OHRP before the FWA can be approved); and
- f) the signature of an official authorized to represent the institution.

The FWA is signed by a high-level individual within the institution, for example, the Chief Executive Officer, Chief Operating Officer, President, or Chancellor, committing the institution to abide by the Terms of Assurance whenever it is engaged in human subjects research covered by the assurance. This person is considered to be the "signatory official" for the purposes of the FWA.

Website: <http://ohrp.cit.nih.gov/search/asearch.asp>

Useful OHRP information:

Policy and Guidance page -- <http://www.hhs.gov/ohrp/policy/index.html>

FAQ'S: [http://www.hhs.gov/ohrp/assurances/assurances\\_index.html](http://www.hhs.gov/ohrp/assurances/assurances_index.html)

## **2. Have an Institutional Review Board (IRB) which must:**

- Have a statement of principles governing institution's discharge of its responsibilities.
- Designate of one or more IRBs established in accordance with requirements of 45 CFR Part 46 with sufficient staff and meeting space.
- Have a list of IRB members identified by name-board consisting of at least 5 members (one must be an expert in scientific area and one must be not affiliated with the institution).
- Have written procedures for review of protocols and for handling problems that arise. ( Note: Additional instructions from DHHS-May 2000, require that grant proposal application and protocol be reviewed side by side to ensure consistency between the award and actual work that is done)
- At UVA members of the IRB are appointed by Vice President for Research and Graduate Studies - <http://www.virginia.edu/vprgs/irb/about.html>

## **3. The IRB must review and approve the protocol for every project involving human subjects prior to any dollars being spent on any activity involving human subject research. Protocols must be reviewed and renewed annually.**

## Terminology from UVA VP for Research:

The definitions below pertain to usage within the context of the UVA Institutional Review Board for the Social and Behavioral Sciences Policies and Procedures, and may therefore differ from general interpretations or definitions. Some of the definitions have been extracted from the Glossary of Terms available in the IRB Guidebook provided by the OHRP.

<http://www.virginia.edu/vprgs/irbsbsterminology.html>

Other Useful links: <http://www.niaid.nih.gov/ncn/qa/default.htm>

## HIPAA PATIENT PRIVACY RULE

The Health Insurance Portability and Accountability Act of 1996 (Public L. 104-191, Subtitle F)  
Implementing Regulation: 45 CFR Parts 160 & 164; *Privacy Rule overrides state laws*  
Administering Agency: Dept. of Health and Human Services (HHS)

### Key Points:

- The Privacy Rule establishes minimum Federal standards for protecting the privacy of individually identifiable health information. The Rule confers certain rights on individuals, including rights to access and amend their health information and to obtain a record of when and why their PHI has been shared with others for certain purposes.
- The Privacy Rule establishes conditions under which covered entities can provide researchers access to and use of PHI when necessary to conduct research. The Rule is not intended to impede research.
- Compliance with the Privacy Rule is required on and after April 14, 2003, for most **covered entities**. (Small health plans have an extra year to comply.)

Frequently asked questions: [http://privacyruleandresearch.nih.gov/pr\\_02.asp](http://privacyruleandresearch.nih.gov/pr_02.asp)