



**FRIENDS RESEARCH INSTITUTE, INC.**  
**1040 Park Avenue, Suite 103**  
**Baltimore, MD 21201**

**Subject:** Reviews Requiring Special Consideration

**Division:** IRB

**Date:** March 1, 2012

## **IRB Policy 110.7: RESEARCH IN EMERGENCY SETTING**

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### **Policy**

The IRB will review research in emergency settings in accordance with 21 CFR 50.24: Exception from informed consent requirements for emergency research. The exception will apply to a limited class of research activities involving human subjects who are in need of emergency medical intervention but who cannot give informed consent because of their life-threatening medical condition, and who do not have a legally authorized person to represent them.

### **Waiver of Consent**

In accordance with 21 CFR 50.24 (a), the IRB responsible for the review, approval, and continuing review of the clinical investigation described in this section may approve that investigation without requiring that informed consent of all subjects be obtained if the IRB (with the concurrence of a licensed physician who is a member of the IRB and who is not otherwise participating in the clinical investigation) finds and documents each of the following seven points:

1. The human subjects are in a life-threatening situation, available treatments are unproven or unsatisfactory, and the collection of valid scientific evidence, which may include evidence obtained through randomized placebo-controlled investigations, is necessary to determine the safety and effectiveness of particular interventions.
2. Obtaining informed consent is not feasible because:
  - (i) The subjects will not be able to give their informed consent as a result of their medical condition;
  - (ii) The intervention under investigation must be administered before consent from the subject's legally authorized representatives is feasible; and
  - (iii) There is no reasonable way to identify prospectively the individuals likely to become eligible for participation in the clinical investigation.
3. Participation in the research holds out the prospect of direct benefit to the subjects because:
  - (i) Subjects are facing a life-threatening situation that necessitates intervention;
  - (ii) Appropriate animal and other pre-clinical studies have been conducted, and the information derived from those studies and related evidence support the potential for the intervention to provide a direct benefit to the individual subjects; and
  - (iii) Risks associated with the investigation are reasonable in relation to what is known about the medical condition of the potential class of subjects, the risks and benefits of standard therapy, if any, and what is known about the risks and benefits of the proposed intervention or activity.

4. The clinical investigation could not practicably be carried out without the waiver.
5. The proposed investigational plan defines the length of the potential therapeutic window based on scientific evidence, and the investigator has committed to attempting to contact a legally authorized representative for each subject within that window of time and, if feasible, to asking the legally authorized representative contacted for consent within that window rather than proceeding without consent. The investigator will summarize efforts made to contact legally authorized representatives and make this information available to the IRB at the time of continuing review.
6. The IRB has reviewed and approved informed consent procedures and an informed consent document consistent with 50.25. These procedures and the informed consent document are to be used with subjects or their legally authorized representatives in situations where use of such procedures and documents is feasible. The IRB has reviewed and approved procedures and information to be used when providing an opportunity for a family member to object to a subject's participation in the clinical investigation consistent with paragraph (a)(7)(v) of this section.
7. Additional protections of the rights and welfare of the subjects will be provided, including, at least:
  - (i) Consultation (including, where appropriate, consultation carried out by the IRB) with representatives of the communities in which the clinical investigation will be conducted and from which the subjects will be drawn;
  - (ii) Public disclosure to the communities in which the clinical investigation will be conducted and from which the subjects will be drawn, prior to initiation of the clinical investigation, of plans for the investigation and its risks and expected benefits;
  - (iii) Public disclosure of sufficient information following completion of the clinical investigation to apprise the community and researchers of the study, including the demographic characteristics of the research population, and its results;
  - (iv) Establishment of an independent DSMB to exercise oversight of the clinical investigation; and
  - (v) If obtaining informed consent is not feasible and a legally authorized representative is not reasonably available, the Investigator has committed, if feasible, to attempting to contact, within the therapeutic window, the subject's family member who is not a legally authorized representative, and asking whether he or she objects to the subject's participation in the clinical investigation. The Investigator will summarize efforts made to contact family members and make this information available to the IRB at the time of continuing review.

## **Protocol Requirements**

The study plan must ensure that, at the earliest feasible opportunity, each subject, or if the subject remains incapacitated, a legally authorized representative of the subject, or if such a representative is not reasonably available, a family member is informed of the subject's inclusion in the clinical investigation, the details of the investigation and other information contained in the informed consent document.

The study plan must ensure that there is a procedure to inform the subject, or if the subject remains incapacitated, a legally authorized representative of the subject, or if such a representative is not reasonably available, a family member, that he or she may discontinue the subject's participation at any time without penalty or loss of benefits to which the subject is otherwise entitled. If a legally authorized representative or family member is told about the clinical investigation and the subject's condition improves, the subject is also to be informed as soon as feasible. If a subject is entered into a clinical

investigation with waived consent and the subject dies before a legally authorized representative or family member can be contacted, information about the clinical investigation is to be provided to the subject's legally authorized representative or family member, if feasible.

If the IRB determines that it cannot approve a clinical investigation because the investigation does not meet the criteria in the exception provided above or because of other relevant ethical concerns, the IRB will document its findings and provide these findings promptly in writing to the Investigator and to the Sponsor of the clinical investigation.

### **Applicable Regulations and Guidelines**

21 CFR 50.24

FDA Guidance: Exception from Informed Consent for Studies Conducted in Emergency Settings:  
Regulatory Language and Excerpts from Preamble - Information Sheet