

## TRADITIONAL PREMISE:

IRBs and investigators are expected to be partners within the same institutional framework. The internal IRB is expected to be conversant with institutional ideals, review processes, commitments, space, and resources. The investigator understands the institutional culture and requirements. There is a built-in grapevine that allows rumors and innuendo to reach the ears of IRB members. To have the IRB internally also creates a built-in conflict of interest in which IRBs may be more eager to promote research that might not otherwise receive approval.

IRBs may be (a) within the same institutional framework (b) within the same facility but remote from the performance site (as in a system-wide IRB). Alternatively, the IRB may be (c) remote from the site and connected contractually.

## WHAT DO FEDERAL GUIDELINES SAY?

OPRR: "The IRB must have a working knowledge of the performance site. For example, if a university were to review for another local hospital they would need to have a working relationship and someone from the local hospital would need to have a membership on the IRB. That person should be a representative of the performance site and not be the PI or a member of the staff. He indicated that OPRR becomes very concerned about IRB review across state lines unless the IRB can demonstrate knowledge of the laws of the state." (Tom Pugliese, OPRR, 4/97)

The FDA Information Sheet titled "Non-Local IRB Review says:

"regulations do not prohibit review of research by IRBs in locations other than where the research is to be performed (e.g., independent IRB or national IRB). Therefore, an IRB may review studies that are not performed on-site as long as the 21 CFR parts 50 and 56 requirements are met."

## HOW CAN LOCAL ISSUES BE ADDRESSED REMOTELY?

Site visits are one way to assess local issues. But this section is about doing review remotely. A diverse IRB membership that has traveled and lived in a variety of areas is essential for recognizing the diversity within the United States. However, because no state or city and few towns are totally homogenous, simple travel, while helpful, is insufficient.

A remoter IRB must ask for information. This can be on the initial investigator questionnaire or through later questioning. The remote IRB can ask about recruitment methods to determine the kinds of incentives and influences being

offered. It can also ask about the community and the alternatives available to the target group, their education level and the probability of insurance coverage.

The internet provides an interesting tool by which to look at census data, newspaper articles, license information and more.

### **KEY "LOCAL POINTS" TO CONSIDER;**

Before "local issues" can be addressed, they need to be identified. What is a local issue?

#### 1. Investigator Qualifications

- Is the investigator at least minimally qualified in the field of study? (e.g. an MD for a drug study, a chiropractor for a chiropractic study or a Ph.D. for a laboratory study)?
- Is the person qualified to do the procedures required by the protocol (e.g., trained in the use of an innovative piece of equipment, capable of handling a class for an education intervention)?
- Has the person gained knowledge through experience or education about the proper conduct of research? (GCP education is now a requirement for most studies.)
- How many other time demands (e.g., travel or competing studies) are there?

#### 2. Staff Qualifications

- Is the staff of sufficient size and quality to carry out the tasks?
- Is the staff appropriate to the culture in which they will work? (no naïve interviewers going into communities where they should not be)
- Is it clear how the tasks will be distributed?
- Is it clear what other groups (e.g. CRO, recruiter) are involved?

#### 3. Facility Acceptability and Resources

- What kind of facility is it?
- Is it equipped to handle the study (e.g., size, staff, emergency equipment)?
- Is there an IRB with jurisdiction over the facility?

#### 4. Standards of professional practice

- Does the protocol fit into the local standards of practice?
- What is the gold standard in the community?

#### 5. Community standards

- Are there local or institutional ideals being abridged?
- Are there any local authorities who should be consulted?

#### 6. Local laws and regulations

- Are there state laws or regulations applicable to conduct of this study?
- Does the institution or site have access to legal knowledge of the rules?



**To assist in writing this, we searched the major regulations for key words.  
Below are the results.**

### SEARCH FOR "LOCAL"

#### From 45 CFR 46

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

- f) This policy does not affect any state or local laws or regulations which may otherwise be applicable and which provide additional protections for human subjects.

##### §46.116 General Requirements for Informed Consent

- c) An IRB may approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth above, or waive the requirement to obtain informed consent provided the IRB finds and documents that:
- 1) The research or demonstration project is to be conducted by or subject to the approval of state or local government officials and is designed to study, evaluate, or otherwise examine:
    - i) Public benefit of service programs;
    - ii) procedures for obtaining benefits or services under those programs;
    - iii) possible changes in or alternatives to those programs or procedures, or
    - iv) possible changes in methods or levels of payment for benefits or services under these programs; and

##### 46.116 General Requirements for Informed Consent

- e) The informed consent requirements in this policy are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed for informed consent to be legally effective.

#### FROM SPECIAL POPULATIONS

46.201 b) Nothing in this subpart shall be construed as indicating that compliance with the procedures set forth herein will in any way render inapplicable pertinent State or local laws bearing upon activities covered by this subpart.

§46.210 Activities involving the dead fetus, fetal material, or the placenta.

Activities involving the dead fetus, mascerated fetal material, or cells, tissue or organs excised from a dead fetus shall be conducted only in accordance with any applicable State or local laws regarding such activities.

46.301 b) Nothing in this subpart shall be construed as indicating that compliance with the procedures set forth herein will authorize research involving prisoners as subjects, to the extent such research is limited or barred by applicable State or local law.

46.402 e) "Guardian" means an individual who is authorized under applicable state or local law to consent on behalf of a child to general medical care.

##### § 46.408 Requirements for permission by parents or guardians and for assent by children. c)

In addition to the provisions for waiver contained in § 46.116 of Subpart A, if the IRB determines that a research protocol is designed for conditions or for a subject population for which parental or guardian permission is not a reasonable requirement to protect the subjects (for example, neglected or abused children), it may waive the consent requirements in Subpart A of this part and paragraph (b) of this section, provided an appropriate mechanism for protecting the children who will participate as subjects in the research is substituted, and provided further that the waiver is not inconsistent with federal, state or local law. The choice of an appropriate mechanism would depend upon the nature and purpose of the activities described in the protocol, the risk and anticipated benefit to the research subjects, and their age, maturity, status, and condition.

#### FROM 21 CFR 50

##### § 50.25 Elements of informed consent

- (c) The informed consent requirements in these regulations are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed for informed consent to be legally effective.

- (d) Nothing in these regulations is intended to limit the authority of a physician to provide emergency medical care to the extent the physician is permitted to do so under applicable Federal, State, or local law.

### FROM 21 CFR 56

#### § 56.103 Circumstances in which IRB review is required.

- (c) Compliance with these regulations will in no way render inapplicable pertinent Federal, State or local Laws or regulations.

#### § 56.124 Actions alternative or additional to disqualification

Disqualification of an IRB or of an institution is independent of, and neither in lieu of nor a precondition to, other proceedings or actions authorized by the act. The Food and Drug Administration may, at any time, through the Department of Justice institute any appropriate judicial proceedings (civil or criminal) and any other appropriate regulatory action in addition to or in lieu of, and before, at the time of, or after, disqualification. The agency may also refer pertinent matters to another Federal, State, or local government agency for any action that the agency determines to be appropriate

## SEARCH FOR "COMMUNITY"

### NIH From 45 CFR 46

#### § 46.107 IRB membership.

- a) Each IRB shall have at least five members with varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution.

The IRB shall be sufficiently qualified through the experience and expertise of its members, and the diversity of the members' including consideration of race, gender, cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects.

#### § 50.24 Exception from informed consent requirements for emergency research

- 5) Additional protections of the rights and welfare of the subjects will be provided, including, at least:
- i) Consultation (which may include consultation carried out by the IRB itself) with representatives of the communities from which the subjects will be drawn;
  - ii) Public disclosure prior to the commencement of the study sufficient to describe the study and its risks and benefits;
  - iii) Public disclosure of sufficient information following completion of the study to apprise the community and researchers of the study and its results; and

- iv) The establishment of an independent data and safety monitoring board.

### 21 CFR 56

#### § 56.107 IRB membership.

- a) Each IRB shall have at least five members with varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution. The IRB shall be sufficiently qualified through the experience and expertise of its members, and the diversity of the members' including consideration of race, gender, cultural sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable law and standards of professional conduct and practice. The IRB shall therefore include persons knowledgeable in these areas. If an IRB regularly reviews research that involves a vulnerable category of subjects, such as children, prisoners, pregnant women, or handicapped or mentally disabled persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about the experienced (sic) in working with those subjects

