

Phoebe Putney Health System, Inc.

POLICY TITLE: PLANNED EMERGENCY RESEARCH

ENTITY: PPMH

Approved by: IRB CHAIR

Effective Date: 5-25-2016

Review Period: 3 Years

Review Date: 5-22-2019

Contact Information: IRB COORDINATOR

Scope: The Planned Emergency Research policy applies to all research involving human subjects, including behavioral, biomedical, and social sciences.

Purpose: To distinguish “emergency use of test articles” and “planned emergency research” and state the requirements and procedures for conducting planned emergency research within Phoebe Putney Memorial Hospital (PPMH).

Definitions:

1. **Emergency use of a test article:** The use of an investigational drug, biologic, or device on a human subject in a life-threatening situation or severely debilitating condition in which no standard acceptable treatment is available and in which there is not sufficient time to obtain IRB approval. [21 CFR 56.102(d)]
2. **Planned Emergency Research:** A narrow exception to the Food and Drug Administration’s (FDA) requirement to obtain and document informed consent; applies to a limited class of research activities involving human subjects who are in need of emergency medical intervention but cannot provide legally effective informed consent. The research plan must be approved in advance by the FDA and the PPMH IRB and publicly disclosed to the community in which the research will be conducted. Such studies are usually not eligible for emergency approvals described in this policy. [21 CFR 50.24]
3. **Life-threatening Situation:** For purposes of section 21 CFR 50.24(a)(1), the scope of life-threatening is as follows:
 - a. The criteria for life-threatening do not require the condition to be immediately life-threatening or to immediately result in death. Rather, the subjects must be in a life-threatening situation requiring intervention before consent from a legally authorized representative is feasible.
 - b. Life threatening includes disease or conditions where the likelihood of death is high unless the course of the disease or condition is interrupted before obtaining consent is feasible. It is not intended to include individuals, who are not in an emergent situation, e.g., individuals who have been in a coma for a long period of time and for whom the research intervention should await the availability of a legally authorized representative of the subject.

Policy:

1. The IRB may approve planned emergency research without requiring that informed consent be obtained from all subjects if the IRB (with the concurrence of a licensed physician who is a member of or consultant to the IRB and who is not otherwise participating in the clinical investigation) finds and documents each of the following:
 - a. The Human Subjects are in a life-threatening situation, available treatments are unproven or unsatisfactory ("clinical equipoise," as defined above, must exist), and the collection of valid scientific evidence (which may, but does not have to include evidence obtained through randomized placebo-controlled investigations) is necessary to determine the safety and effectiveness of particular interventions.
 - b. Obtaining informed consent is not feasible because all three (3) of the following will be present:
 - i. The subjects will not be able to give their informed consent as a result of their medical condition. NOTE: Subjects do not have to be comatose, but the medical condition under study must prevent obtaining valid informed consent. The IRB must determine, based on the specific details of the individual clinical investigation (including the window of opportunity for treatment), the procedures the investigator must follow to attempt to obtain informed consent before enrolling a subject in an investigation without such consent.
 - ii. The intervention under investigation must be administered before consent from the subjects' legally authorized representatives is feasible. The IRB must determine, based on the specific details of the individual clinical investigation (including the window of opportunity for treatment), the procedures the investigator must follow to attempt to obtain informed consent from a legally authorized representative before enrolling a subject in an investigation without such consent.
 - iii. There is no reasonable way to identify prospectively the individuals likely to become eligible for participation in the clinical investigation.
 - c. 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 preclinical 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 positional 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 acuity.
 - d. The clinical investigation could not practicably be carried out without the waiver. According to the FDA, research cannot practicably be carried out without the waiver, for example, (1) if the recruitment of consenting subjects will bias the science and the science will be less rigorous as a result of restricting it to consenting subjects; or (2) the research will be unduly delayed by restricting it to consenting subjects.
 - e. 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 of time rather than preceding without consent. The investigator must summarize efforts made to contact

- legally authorized representatives and provide this information to the IRB at the time of continuing review.
- f. The IRB has reviewed and approved informed consent procedures and an informed consent document consistent with the requirements outlined in the IRB policy entitled "Informed Consent." 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.
 - g. Additional protections of the rights and welfare of subjects will be provided, including, at a minimum, all of the following:
 - i. Consultation with representatives of the communities in which the clinical investigation will be conducted and from which the subjects will be drawn. Based on this community consultation, the IRB may decide, among other things, that it is appropriate to attempt to exclude certain groups from participation in the investigation, or that wider community consultation and discussion is needed. The IRB may also consider including consultants to the IRB from the communities in which subjects will be drawn, enhancing the membership of the IRB by adding members who are not affiliated with PPMH and are representative of those communities, or developing other mechanisms to ensure ongoing community involvement.
 - 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. It is the IRB's responsibility to determine the information to be disclosed. Initial disclosure of information will occur during the community consultation process. Disclosure of this information to the community will inform individuals within the community about the clinical investigation and permit them to raise concerns and objections.
 - 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. Sufficient information may be contained in a scientific publication of the results of the completed investigation; in other instances, a publication may need to be supplemented by additional information. Following publication by the sponsor and/or lead-investigators, the IRB is responsible for determining appropriate mechanisms for providing this information, possibly supplemented by a lay description, to the community from which research subjects were drawn.
 - iv. Establishment of an Independent Data Monitoring Committee. The data monitoring committee is established by the sponsor of the research, as an advisory board to the sponsor. The PPMH IRB does not establish or serve as a data monitoring committee.
 - 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. Efforts made to contact family members will be summarized by the investigator and submitted to the IRB at the time of continuing review.

2. The IRB is responsible for ensuring the investigator(s) have procedures in place to:
 - a. Inform, at the earliest feasible opportunity, each subject, or if the subject remains incapacitated, a legally authorized representative of the subject, or if such representative is not reasonably available, a family member, of the subject's inclusion in the clinical investigation, the details of the investigation and other information contained in the informed consent document.
 - b. Inform the subject, or if the subject remains incapacitated, a legally authorized representative of the subject, or if such 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.
 - c. If a legally authorized representative or family member is told about the clinical investigation and the subject's condition improves, to also inform the subject as soon as feasible.
 - d. Inform the subject's legally authorized representative or family member, if feasible, when 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.
3. Record Retention: Records of the above determinations shall be kept for a minimum of three (3) years after the completion of the investigation [21 CFR 50.24(c)]. These records are subject to inspection and copying by the FDA.
4. Planned emergency research protocols involving an investigational drug, biologic or device must be performed under a separate investigational new drug application (IND) or investigational device exemption (IDE) that clearly identifies such protocols as protocols that may include subjects who are unable to consent. The submission of those protocols in a separate IND/IDE is required if an IND for the same drug product or an IDE for the same device already exists. Information regarding the status (e.g., FDA approval letters) of the IND/IDE must be submitted to the IRB at time of initial review.
5. If the IRB determines that the clinical investigation cannot be approved because the investigation does not meet the approval criteria above, or because of other relevant ethical concerns, the IRB will document its findings in a written notification to both the investigator and the sponsor.

Procedure:

1. Initial Review: In order to be considered complete, an application for IRB review of planned emergency research must include the following, in addition to the general documentation required for initial review. [See related PPMH policy "Initial Review"]
 - a. A brief description of the planned emergency medical intervention and explanation of the medical condition under study that would ordinarily prevent obtaining valid informed consent from the subject.
 - b. Investigator Brochure or other documentation demonstrating appropriate animal or other preclinical studies have been conducted and that the information derived from those studies and related evidence support the potential for the intervention to provide a direct benefit to the individual subjects.
 - c. Summaries of consultation with representatives from the communities from which subjects will be drawn.

- d. Copy of the proposed public disclosure document(s) to the communities in which the clinical investigation will be conducted and from which subjects will be drawn.
 - e. Explanation of why the research cannot practicably be carried out without a waiver of informed consent.
 - f. Documentation demonstrating establishment of a Data Monitoring Committee.
 - g. Procedures for contacting legally authorized representatives within the therapeutic window to obtain consent prior to enrolling the subject without such consent and/or procedures for contacting family members when legally authorized representatives are not reasonably available to ask if the family members have any objections.
 - h. Procedures for informing the subject if the subject's condition improves or the legally authorized representative and/or family member should the subject expire prior to contacting the legally authorized representative or family member that the subject was entered into an investigation with waived consent.
 - i. Information regarding the status of FDA-approval of the investigation under a separate IND/IDE, if applicable.
2. Continuing Review: In order to be considered complete, an application for continuing review must include the following documentation, in addition to that generally required. [See related PPMH policy, "Continuing Review"]
 - a. A summary of efforts made to contact legally authorized representatives both prior to a subject's participation and/or subsequent to the subject's participation if consent was waived, in accordance with the above policy.
 - b. A summary of efforts made to contact family members to inquire whether family members had any objections to the subject's participation when obtaining consent from the subject was not feasible and a legally authorized representative was not reasonably available.
 3. Study Completion: A copy of a scientific publication of the results of the completed investigation, including demographic characteristics of the research population must be provided to the IRB at the close of the investigation. The IRB will not close the study until such publication has been received, which will result in the study being subject to continuing review requirements imposed by the IRB. Further, after review of the publication, the IRB may determine that additional mechanisms are required for providing the information to the community or that supplemental lay descriptions are necessary. The IRB shall provide written notification to the investigator of any additional requirements and set a continuing review period of not less than 30 days to allow the investigator to compile his or her responsive materials.
 4. The IRB shall document in the meeting minutes: (1) the affirmative vote and identity of the independent physician consultant to the IRB and IRB member not participating in the research; and (2) all of the determinations and findings required in Section 1 under "Policy."

References:

- 21 CFR 50.24

REVISION HISTORY

Revision Number	Description of Changes	Approvals	Date
N/A	Initial release of Policy for PPHS Policy Management System (Compliance 360 Program). This policy replaces all previous versions.	IRB Committee	5-25-2016
0	Policy Reviewed – No Changes	IRB Committee	05-22-2019