

SUBCOMMITTEE ON HARMONIZATION (SOH) UPDATE

**Mark Barnes
David Forster**

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Membership

- ▣ Susan Alpert, Ph.D, M.D.
- ▣ Mark Barnes, J.D., LL.M. - Co-Chair
- ▣ Gary Chadwick, Pharm.D., CIP (new member)
- ▣ David Forster, J.D., MA, CIP - Co-Chair
- ▣ Dean Gallant, A.B.
- ▣ Karen N. Hale, RPh, MPH, CIP
- ▣ Justin P. McCarthy, J.D.
- ▣ Marjorie A. Speers, Ph.D.
- ▣ Susan Stayn, J.D.

Meetings

- ▣ Convened meetings:
 - April 15-16, 2010.
 - September 21-22, 2010.
 - February 8-9, 2011.
- ▣ Monthly teleconferences.

Completed Activity - HHS Conflict of Interest Policies

- ▣ Recommendation regarding adoption of a single conflict of interest standard across DHHS entities.
- ▣ Adopted by SACHRP at July 21, 2010 meeting.

Completed Activity - Comparison of Common Rule and FDA Regulations

- Reviewed differences between Common Rule FDA at SOH meeting of September 21-22, 2010.
- Many of the differences are based in unique roles of the agencies and are not problematic:
 - Differences in waivers of documentation of consent
 - FDA emergency use regulation.
- This background is informing continuing SOH activities, but no recommendation on solely this comparison is planned.

Completed Activity - Commentary on NPRM on HITECH

- Recommendation adopted by SACHRP at October 19, 2010 meeting.
- Five topics:
 - Compound Authorizations
 - Future/Secondary Research
 - Minimum Necessary
 - Business Associates
 - Restriction on Sale of PHI

Completed Activity – Definition of Non-Scientist

- ▣ Recommendation adopted by SACHRP at October 19, 2010 meeting.

Activities in Process

- ▣ SOH would like SACHRP input on four current activities in process:
 1. Draft recommendation on minor changes in research that can be reviewed through the expedited procedure.
 2. Draft recommendation on “planned protocol deviations.”

Activities in Process

3. Draft recommendation on regulatory application to research activities prior to obtaining informed consent, also known as “when does research begin?”
4. Draft recommendation on when FDA regulations apply.

Activity in Process – Minor Changes in Research

- ▣ Minor changes in research that can be reviewed through the expedited procedure.
- ▣ Started with a SACHRP panel prior to creation of SOH.
- ▣ SOH has drafted a recommendation, included in your briefing book.
- ▣ SOH would like SACHRP's input on the overall approach and particular issues:
 - Which of the sample definitions does SACHRP prefer, if any?
 - Should the recommendation include examples of changes in research that can be approved through the expedited procedure?

Activity in Process – Planned Protocol Deviations

- Is it acceptable for investigators to intentionally deviate from the protocol, and if so, what are the procedural requirements?
- Wide variety of policies across the regulated community.
- SOH has drafted a recommendation, included in your briefing book.

Activity in Process – Planned Protocol Deviations

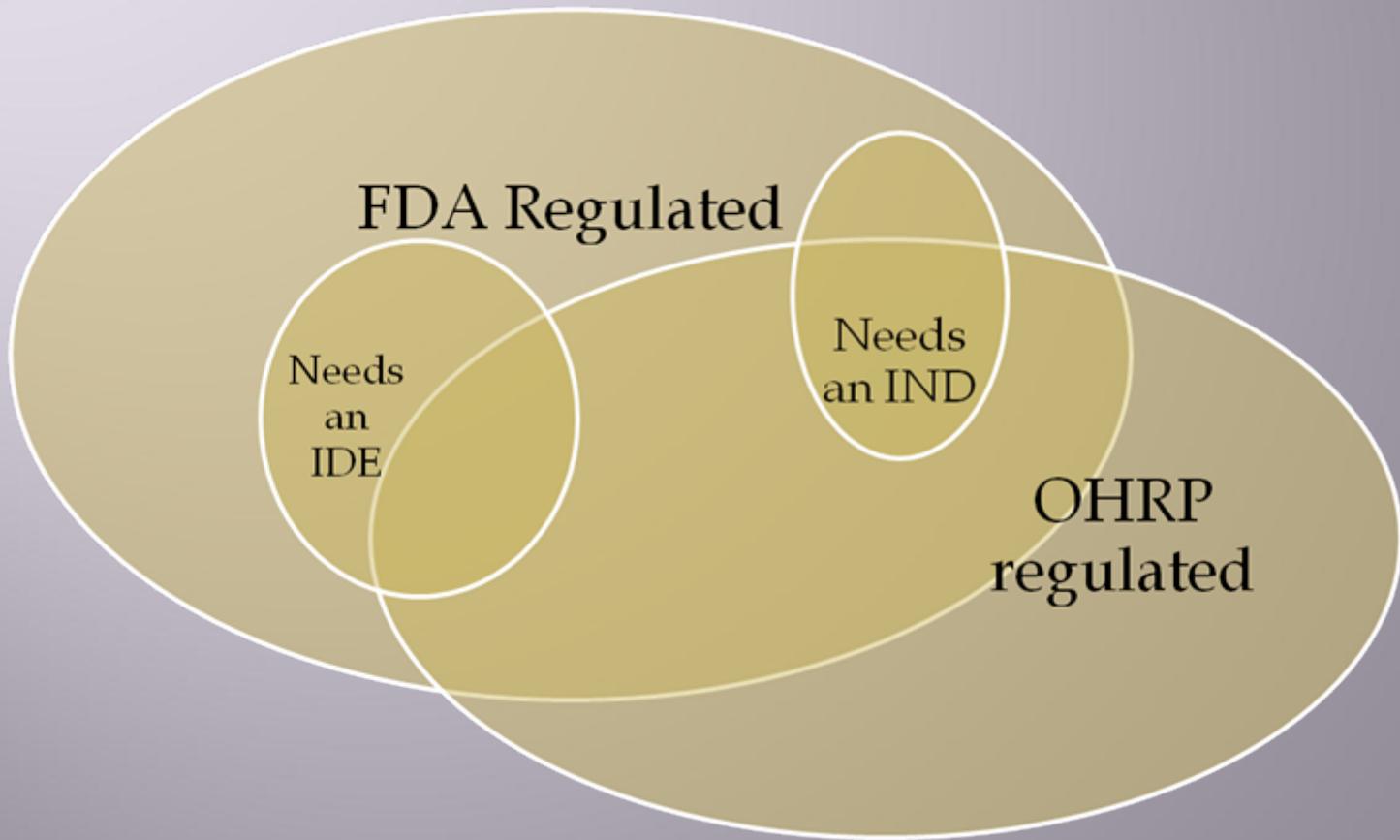
- SOH would like SACHRP's input on the overall approach and particular issues:
 - Are the definitions of the various events useful, e.g., planned deviation versus unanticipated problem, etc.?
 - Does SACHRP believe that planned protocol deviations are acceptable or not?
 - If they are acceptable, what procedural requirements should apply?

Activity in Process – When Does Research Begin?

- ❑ Substantial differences among OCR, FDA, and OHRP regulations and guidance on this issues.
- ❑ SOH has drafted a recommendation, included in your briefing book.
- ❑ Does SACHRP agree with the recommendation that OHRP should adopt FDA guidance on recruitment activities that occur prior to obtaining consent from the subject?
- ❑ Does SACHRP agree with the recommendation that OHRP should abandon the requirement that IRBs must always consider a waiver of consent for these activities?

Activity in Progress – When do FDA Regulations Apply

- ❑ SOH has drafted a recommendation, included in your briefing book.
- ❑ Does SACHRP agree with the general approach that SOH has adopted?



FDA Regulated

Needs
an
IDE

Needs
an IND

OHRP
regulated

Activity in Progress - When do FDA Regulations Apply

- SOH working group will continue work on algorithm based on these examples.

Activity in Process – RFI

- ❑ SOH drafted a Request For Information to gather public input on harmonization issues.
- ❑ Submitted to agencies for finalization and release.
- ❑ Still in process.

Future Topic – Standard practice vs. Innovative care vs. research vs. clinical investigation

- ▣ QA/QI activities, especially QA/QI activities involving FDA regulated products or products that may or may not be FDA regulated (example, skin cleaner on wash cloth versus a marketed product for cleaning skin.).
- ▣ CDC definition of research vs. QI vs. epidemiology.

Possible Future Topic –Tissue Research

- ▣ Testing on tissue samples and biological sample banking.
- ▣ Unspecified future research.
- ▣ Identifiable versus non-identifiable.
- ▣ Extension of IVD assay consent waiver to IND assays.
- ▣ Most potential overlap with Subpart A Subcommittee (SAS) is in this area.

Future Topic – Engagement of Community in Research

- ▣ How and when should community be engaged in research.
- ▣ No clear protocol or method, subjects are involved in design.
- ▣ HPTN, HVTN, NIADA CAB utilize community participation.
- ▣ Community consultations under 50.24.

Future Topic – Consent Issues

- ▣ Use of partially translated short form for non-English speakers. OHRP versus FDA. OCR silent.
- ▣ Documentation of consent/signature requirements. HHS signature vs. FDA signature and date vs. ICH signed copy and witness signature for illiterate subjects.

Future Topic – Application of Subparts B, C, D

- ▣ Unequal application of the subparts across agencies.

Future Topic – International

- ▣ Common Rule vs. FDA vs. ICH vs. OCR.
- ▣ Also European laws, other laws around the world.
- ▣ Preemption issues.

Possible Future Topic – State laws, Non-HHS agencies

- ▣ Broadest issue, outside current focus of SOH.

Future Topic – Incapacitated Adults

- ▣ SIIIDR report.
- ▣ VA guidance.
- ▣ new FDA information sheets.
- ▣ ICH.
- ▣ OHRP FAQ on LAR.
- ▣ NIH Points to Consider.
- ▣ Could and should all these be harmonized?

Future Topic – Safety Issues

- ▣ Unanticipated problems and overall protocol safety assessment by sponsors and others.
- ▣ FDA guidance on DSMBs and NIH requirements for DSPs.
- ▣ Continuing difference between FDA and OHRP UP guidances. Mostly issue of seriousness. Could it be a single guidance?

Future Topic – Local Attitudes

- ▣ FDA versus OHRP guidance.

Future Topic – Exculpatory language

- ▣ What is exculpatory language?
- ▣ Issue mostly focused on property rights in tissues.
- ▣ FDA and OHRP working on guidance.
- ▣ ESCRO standards, state laws, DOD differ.

Future Topic – Procedural Issues

- ▣ Creation of a single new agency to oversee all human subjects research in the US.
- ▣ Procedural changes in the way that the common rule agencies establish guidance in order to promote harmonized guidance.
- ▣ Procedural changes to require or promote joint regulations and/or guidance from OHRP and FDA and other HHS agencies.

▣ Feedback or Questions?