UC San Diego
INSTITUTIONAL REVIEW BOARD ADMINISTRATION

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In This Issue

NEW: OIA June Office Hours

The next OIA office hours will be held on June 12, 2024 from 9-10 am and can be accessed at that time here.

NEW: My Study Uses a Medical Device - Now What?

This article is a companion piece to the article "Unexpected Medical Devices in Human Subjects Research" published in RCI's June 2024 newsletter.

It can be a jarring experience. You've been patiently awaiting IRB review of your recent study and you finally get that Kuali IRB notification that there are revisions needed. You open up the study in Kuali IRB and see that OIA has determined your study involves a medical device. Your mind suddenly flashes with images of huge binders, stacks of paper, and endless hours of reading through documents to compile an IDE application. You might even think to yourself, "It's just an AI! How could that possibly be a medical device?" Fear not, for not all medical devices are created equal or require an IDE submission to the FDA.

Some medical devices can be determined to be "IDE exempt." This means that while they are indeed medical devices, an IDE submission isn't necessary. The most common of these exemptions come in two forms:

1. Currently approved or cleared medical devices being used in accordance with their FDA approved or cleared labelling. **NOTE:** Unlike drugs, many devices used "off label" will not be IDE exempt unless they meet #2 below.
2. Diagnostic devices which are unapproved or used for an unapproved indication when:

1. The testing is noninvasive; and
2. The testing doesn't use an invasive sampling procedure that presents significant risk; and
3. The testing does not introduce energy into a subject by design or intention; and
4. The testing will not be used without confirmation by another medically established product or procedure; and
5. The sponsor will comply with the requirements for labelling at 21 CFR 809.10(c)

In practice, this means that a fair number of the studies using medical devices that get submitted to OIA can be determined to be IDE exempt. However, as a research institution that is consistently coming up with new devices and new ways to use existing devices we also see plenty of studies that use medical devices which **are not** IDE exempt. So do all of these studies need to submit to the FDA for an IDE?

Not necessarily, just because a medical device isn't IDE exempt doesn't mean an FDA submission is required. IRBs are empowered to issue what are called "abbreviated IDEs" for studies which use medical devices which are determined to be a "non-significant risk." Unfortunately, the FDA doesn't define what makes a medical device non-significant risk, so IRBs have to instead look at the definition of a "significant risk device" and determine that these criteria **are not** met.

A significant risk device is any device that presents a potential for serious risk to the health, safety, or welfare of subject. In addition, that device may be:

- Intended as an implant (e.g. a pacemaker)
- Purported or represented to be for a use in sustaining human life (e.g. a ventilator)
- For a use of substantial importance in diagnosing, curing, mitigating, or treating disease or otherwise preventing impairment of human health (e.g. intracranial pressure monitor)

If the IRB determines that the medical device is a non-significant risk device (or "NSR device") no submission to FDA is necessary. On the other hand, if the medical device is determined to be a significant risk device (or "SR device") an IDE application will need to be filed with the FDA.

Have an SR device and don't know what to do next? The ACTRI's Clinical Trial Support Services (CTSS) group is available to help with your IDE submission. A request for services can be submitted here.

Not sure why something was determined to be a medical device in the first place? Read our companion piece in RCI's June 2024 newsletter.

Have questions and want to talk to someone at OIA? Email us at irb@ucsd.edu!

Reminder: Updated Sponsor Letter

OIA recently updated the Sponsor Letter available on our website. The new letter is dated April 8, 2024 and incorporates a minor change to the section "Compliance with FDA Regulations and International Conference on Harmonization (ICH) Guidelines" which starts at the end of the first page.

If you use this letter in discussing studies or OIA policies with your sponsors, please ensure you're using the most current version.

Reminder: Reportable Event Letters

Kuali has recently enabled a new feature allowing OIA to create determination letters in Kuali IRB for reportable events similar to how we have created approval letters for years.

The change is not retroactive (no letters will be created for previously reviewed events); however, new reportable events submitted on new or old studies will have this feature enabled.

Because the process is not exactly the same as locating an approval letter, we have created this Knowledge Base Article (KBA) to provide step-by-step directions to locating the letter.

Having troubles navigating Kuali IRB? The OIA team is here to help! Please email us at irb@ucsd.edu.

Reminder: What to do When All Human Subjects Research is Conducted at an External Site

Often the process for getting IRB review is pretty straightforward. A researcher conducting human subjects research decides whether they'll use the UCSD IRB or an External IRB and then follows the appropriate process.

But what happens when UCSD/RCHSD gets a grant for a human subjects research project even though no one at UCSD/RCHSD will actually do any human subjects research?

This could happen for a variety of reasons: all the human subjects research will be done by collaborators, all the human subjects research will be done in a foreign country, the grant is transferring to UCSD/RCHSD but all the human subjects research is done at a different institution.

In all these cases, the one constant is that UCSD/RCHSD is receiving a federal award under which human subjects research will be conducted, albeit likely through subawards. As the prime awardee, UCSD/RCHSD is responsible for ensuring that the rights and welfare of the participants are protected according to the regulations set out in the Common Rule. This is accomplished, in part, by receiving IRB approval and IRB approval is a term of the award.

However, in addition to merely ensuring there has been IRB approval, most federal funders also consider the prime awardee institution (UCSD/RCHSD in this case) to be engaged in the human subjects research even if a participant will never come to UCSD/RCHSD, talk to UCSD/RCHSD staff, or have their identifiable data sent to UCSD/RCHSD. This means that UCSD/RCHSD, as a performance site, needs IRB review.

In the case where there is another US site also engaged in the human subjects research, the UCSD IRB will typically cede its review to another site through a

reliance agreement or the UCSD IRB will serve as the single IRB (sIRB) for the other US sites.

But what happens when UCSD/RCHSD is the only US site and all the human subjects research is conducted abroad?

Even in such cases, the UCSD IRB must review the study (along with the foreign IRB(s), depending on the country/ies) to ensure the regulatory requirements (e.g. informed consent, criteria for approval, etc.) are met; however, because no human subjects research will actually be conducted at UCSD/RCHSD, these submissions are not the same as the usual process.

So what process is used instead?

The UCSD IRB will still need to receive the study protocol and informed consent document(s) in Kuali IRB for review and approval; however, these need not use the OIA templates and UCSD/RCHSD specific language (e.g. injury language, the Moore clause, HIPAA language, etc.) need not be included. The UCSD IRB will also need to see any supporting documentation like Investigator Brochures (IBs), surveys/questionnaires, recruitment materials, and anything meant to be seen or heard by participants. Additionally, the Kuali IRB application should indicate that all study procedures are conducted outside of UCSD/RCHSD.

What if I still have questions?

The OIA team is always here to help. Email us at irb@ucsd.edu and we'll be happy to answer any questions!

Reminder: The IRB Review Process

For those unfamiliar with submitting to an IRB for approval, the process can seem both daunting and be a bit of a "black box" in terms of processing. When can I expect to hear back? I received some questions early on and then crickets, why? When will my study be reviewed? What does the IRB look for?

In order to be more transparent with the research community, we have posted all our SOPs, Worksheets, and Checklists on our Guidance page. These documents cover the vast majority of the IRB review process and the various aspects that will be reviewed. Mid level flowcharts describing both the OIA review process and the External IRB Reliance process are also available on our webpage for those who prefer a more graphical representation of workflows.

Of course, we don't expect our researchers to be experts in the human subjects research process and so while we provide very detailed information on our website

for those interested, we also wanted to provide this more general overview of the process:

- **Triage** - This is where it all starts!
    - When a new study, amendment, continuing review, or reportable event is submitted, our triage team is notified by the system.
    - Triage checks for general completeness, PI CITI training, common errors (e.g. negative subject numbers, non-UCSD/RCHSD personnel, etc.), and determines the likely level of review needed.
    - If there are errors or missing information identified, the submission will be returned to the research team to address the errors and provide the missing information.
    - Once the submission is complete, the triage team will send the submission to one of OIA's three review teams.
- **Non-Committee** - Review team for Not Human Subjects Research (NHSR) determinations as well as Exempt and Expedited reviews
    - Submissions qualifying for NHSR determinations as well as submissions of new Exempt and Expedited projects are reviewed for the criteria for approval.
    - Submissions of amendments and continuing reviews for studies previously reviewed by the non-committee team are also reviewed for the criteria for approval.
    - If a submission of a new study, amendment, or continuing review is found to need full board review either through review (less likely) or because more information is disclosed during the review process (more likely), the non-committee team will assign the submission to the appropriate committee team member for review.
    - Submissions of reportable events for studies previously reviewed by the non-committee team are reviewed for whether they can be accepted by the non-committee team or require review by the full board according to our SOP.
    - If a submission needs more information or changes in order to be approvable, the non-committee team will return the submission to the research team with action items.
    - If a submission can be approved, the non-committee team will issue the approval in the Kuali IRB system.
- **Committee** - Review team for studies requiring review by the Full Board.
    - Submissions of new human subjects research which are not exempt and don't qualify for expedited review (either because of the procedures involved or the risk level) will be sent to this team.

- Submissions of amendments, continuing reviews, and reportable events in studies previously reviewed by the full board will also be sent to this team.
- New studies will undergo a pre-review process to identify as many issues as possible prior to review by the full board. If issues are identified, the submission is sent back to the research team to address prior to scheduling for a full board review.
- Amendments, continuing reviews, and reportable events are assessed as to whether they can be reviewed by the committee team member or must be scheduled for full board review and a preliminary review is conducted. Again, if issues are identified, the submission is sent back to the research team to address prior to approval by the committee team member or scheduling for a full board review.
- If a submission is being reviewed by the full board, the committee team member will reach out ahead of the meeting if a member prospectively identifies any issues likely to cause a deferral.
- Following the full board meeting, the committee team member will communicate the board's decision through Kuali. Possible determinations include Approval, Approve Pending, Deferred, or Disapproved. Reportable events can have a variety of outcomes including accepted, determined to be non-compliance (may be serious or continuing), determined to be an unanticipated problem involving risk to subjects or others (UPIRSO/UPR), or result in a suspension or termination.
- If a submission is able to be reviewed by the committee team member, once the submission meets criteria for approval they will issue approval in the Kuali IRB system.

- **Reliance** - When review will be conducted by an external IRB.
  - Submissions with a request to rely on an external IRB are sent to the reliance team for clearance to submit to the external IRB.
  - The reliance team will conduct an administrative review to ensure appropriate local context will be applied (e.g. California Laws, UC policies, etc.).
  - If issues are identified, the reliance team will return the submission to the research team for more information or changes, as needed.
  - Once clearance can be issued, the reliance team will issue a clearance notice in the Kuali IRB system.
  - Following approval by the external IRB, research teams resubmit the application in the Kuali IRB system with the external IRB's approval and approved documents for acceptance.

- The reliance team again ensures the local context was adhered to and requests revisions as necessary.
- If all local context considerations are satisfied, the reliance team will issue an acceptance letter in the Kuali IRB system.

While this is a general overview about the steps in the review process, there are many nuances and special circumstances that aren't covered in the above.

Want to learn more? Email us at irb@ucsd.edu with your questions!

Don't Forget: Submitting a Funding Proposal? Don't Wait to Submit to OIA

UCSD researchers collectively bring in an extraordinary amount of funding from outside sources to help support their research, but these funders need to see certain things before they hand over any money. This includes IRB approvals or determinations when there are human subjects involved.

In OIA, we strive to be partners with our researchers and not stand in the way of getting research started. OIA often receives requests for rush approvals and reviews when Just In Time (JIT) notices come out. While we are happy to accommodate, these tend to bog down our review process for other researchers. In addition, there may be unforeseen complications with how research is proposed which means it cannot be easily approved even if it is moved to the front of the line.

As such, we ask that after researchers submit their proposals for funding, if the research will involve human subjects, go ahead and submit an application for review to OIA. That way, if something unforeseen arises there is time to deal with it without putting research funding in jeopardy.

Please keep in mind that the normal OIA review process can take from 6-8 weeks from the time of submission, so be sure to get those studies submitted with plenty of time for review. Our office (and your fellow researchers) thank you!

Need help with a submission? Contact us at irb@ucsd.edu and one of our analysts will be happy to assist.

Don't Forget: Renewal of Business Systems Accounts

Since access to Kuali is controlled through IT systems, some folks (RCHSD researchers, students, etc.) had to obtain business systems accounts to be able to access Kuali. Those accounts are generally good for only a year and need to be renewed. As such, we want to remind everyone about this.

If you are a **user** who has a business systems account that you use to access Kuali, check in with the department who sponsored your account to see if there is anything they need you to do to ensure your account is renewed.

If you have **sponsored** someone for a business systems account, please be sure to follow your departmental policies on renewing (or not) accounts in a timely fashion so that researchers do not lose access to Kuali. Furthermore, please be on the lookout for automated emails asking you to renew access for these individuals throughout the course of the year.

Don't Forget: Getting Help

Kuali IRB Knowledge Base Articles (KBAs) are part of the growing Research Knowledge Base. We generate new articles and update older articles in response to trends in questions or problems submitted by the research community.

Our OIA FAQ page answers the top questions our office receives from the research community. It covers everything from "Do I need to submit to the IRB?" to "How do I find my approval letter?"

Can't find what you're looking for? Contact OIA by email at irb@ucsd.edu with questions or to report errors/issues. For questions in relation to single IRB/reliance arrangements, contact irbrely@ucsd.edu.

Please be sure to include the protocol number, if available. This will help the OIA team triage and troubleshoot.
