Informed Consent Form Elements and Requirements

Definitions

Consent Form: The consent form is a formalization of the agreement to participate, and it is used to document the informed consent process.

Informed consent: a person's voluntary agreement, based upon adequate knowledge and understanding of relevant information, to participate in research or to undergo a diagnostic, therapeutic, or experimental procedure. The informed consent form must contain all required elements of 45CFR46.166, 21CFR50.20, and 21CFR50.25(a) and (b).

Legally Authorized Representative (LAR): Legally authorized representative means an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participating in the procedure(s) involved in the research (45CFR46.102(c)). Legally-authorized representatives will most likely be parents and other types of individual guardians.

Witness: A third party present during the oral presentation of the consent form and the consent interview.

General consenting procedures

Informed consent is a process, not just a form. Informed consent is essential for studies involving human subjects. Subjects need to understand why the research is being conducted, what procedures and time commitments are involved, and the potential risks and benefits. The informed consent process should be presented to the subject in a manner that avoids coercion or undue influence, including providing an opportunity for discussion. Potential participants should have ample time to read the consent form before it is signed.

Investigators and study staff should allow adequate time for the participant to read the consent form and ask questions to decide whether or not to participate. The IRB must approve all consent forms and scripts. If these forms need to be changed for any reason, the changes must be reviewed and approved by the IRB prior to the use of the revised informed consent form.

Investigator responsibilities

1). It is the responsibility of the investigator to ensure that consent is obtained by personnel who are knowledgeable about the study and who are able to respond to questions about the study. Investigators must obtain legally effective informed consent from each subject or from the subject's legally authorized representative prior to the subject's participation in the research, unless specifically exempted from this requirement by the IRB.

For the purposes of consenting subjects, "investigator" includes individuals who conduct human subjects research projects, including individuals directly involved in seeking the voluntary informed consent of potential subjects. Investigators can include physicians, scientists, nurses,

administrative staff, teachers, and students, among others; however, the IRB may restrict the consent process to principal investigators and co-investigators only.

2). The investigator is also responsible for ensuring that the consent form is signed and dated by the subject or the subject's legally authorized representative. The investigator should include the procedures in the study protocol for documentation of informed consent, including procedures for obtaining assent from minors, the use of translators, and how the document will be stored.

3). An investigator must seek consent only under circumstances that provide the prospective subject, or the subject's legally authorized representative, sufficient opportunity to consider whether or not to participate and to minimize the possibility of coercion or undue influence. Selection of subjects must be equitable within the confines of the study. The investigator may not arbitrarily exclude subjects on the basis of gender, race, national origin, religion, creed, education, or socioeconomic status.

Posting the consent form

For clinical trials conducted by or supported by a Common Rule department or agency, a copy of the IRB-approved consent form used to enroll subjects must be posted by the awardee, or the federal department or agency conducting the trial, on a publicly available Web site established as a consent form repository.

The consent form should be posted any time after recruitment closes, but no later than sixty days after the last study visit by a subject. Only one version of the consent form should be posted.

Investigators may request from the funding agency an exception to the requirement to post the consent form and to redact any confidential commercial information prior to posting.

To fulfill this requirement, Woman's IRB suggests posting the consent form on clinicaltrials.gov.

Consent form cover sheet for key elements

The cover sheet should be limited to a single page, if possible, to present the key elements of the study in a concise manner.

Key information essential to decision-making on the part of the subject regarding participation should be presented first in the consent form. The cover sheet for the consent form should present the key information of the study to the participant to help in making a decision about whether or not to participate in the research. Additional information regarding the study may be included in an appendix.

The key elements should include:

- A statement that the activity is research
- Why the participant is being asked to take part

- A statement of the purpose of the research
- A statement that participation is voluntary, and refusal to participate will not result in any loss of benefits to which the subject is otherwise entitled
- The expected duration of participation
- An explanation of which drugs or procedures are experimental (if applicable)
- An explanation of general study procedures
- An explanation of general risks to the participants
- An explanation of benefits to the participant or others (if any)
- Any alternatives available to participating in the research (if applicable)
- Any compensation for participation

Elements of the informed consent form

Stylistic requirements

Informed consent forms should adhere to the following stylistic and procedural requirements:

- A minimum of a 12-point font is required. Larger than normal type size is recommended for some populations (example, children, the elderly, visually impaired).

- Typewritten documents are required

- The first page should include the names, addresses, and phone numbers of the principal investigator, co-investigator(s), major professor (if applicable), and site medical monitor (if applicable).

- The title of the study on the consent form should match the title on the protocol

- Consent forms should be formatted with paragraph subtitles (e.g., Risks, Benefits, Alternative Treatments, Confidentiality, Costs and Payments, etc.)

- A footer or a header should include consecutive page numbers

- A footer at the bottom right of each page should include a one and a half inch space to allow the IRB to affix an approval stamp

- The informed consent form must be written in the second person ("you") point-of-view. The signature page, however, must be written in first person ("I")

- The consent form should be written in non-technical, non-medical language at a level understandable to the subjects in the study (6^{th} - 8^{th} grade reading level for adult subjects). The reading level may be higher depending on the subject population to be enrolled.

- The signature page must be delineated from the rest of the document (such as a line inserted from the rest of the document or on a separate page)

- The signature page should include lines for signature by the participant, legally-authorized representative (if applicable), and the person conducting the consent process.All signature lines should be dated.

- A copy of the informed consent form must be given the participant.

Main elements

The Common Rule requires that specific elements be contained in all informed consent documents. Unless waived by the IRB, required elements of informed consent may not be omitted and there may not be discrepancies between the IRB application and the informed consent documents regarding the purpose, risks, and benefits of the research.

The regulations require that the following information must be conveyed to each subject:

- a statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental;

- a description of any reasonably foreseeable risks or discomforts to the subject;

- a description of any benefits to the subject or to others which may reasonably be expected from the research;

- a disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;

- a statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained;

- for research involving more than minimal risk, an explanation as to whether any compensation and an explanation as to whether any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained;

- an explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research-related injury to the subject; and

- a statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

Information to include in the main consent form:

INTRODUCTION SECTION
A statement that the study involves research – why the subject is being asked to participate
Statement of the purpose of the research
State that participation is voluntary, and that refusal to participate will not result in any loss of benefits
Expected duration of subject's participation / number of participants to be enrolled
PROCEDURES SECTION
Description of all study procedures
Identification of procedures that are experimental
RISKS SECTION
Describe all risks, physical and non-physical, including those not from the experimental part of the study
BENEFITS SECTION
A description of all reasonably expected benefits
ALTERNATIVES
A disclosure of alternative drug(s) or treatment(s) that may be advantageous to the subject (if any)
INJURY/COSTS SECTION (for greater than minimal risk studies only)
State whether compensation exists if injury occurs, if study is greater than minimal risk; what it consist of, where more info may be obtained
State whom to contact in the event of a study-related injury
State whether or not medical treatment is available and, if so, what this treatment involves, how it is obtained, who to contact for more info, (if study is greater than minimal risk)
Include Ericka Seidemann, Human Protections Administrator, (225) 231-5296, as the person to contact regarding questions about research subjects' rights
CONFIDENTIALITY SECTION

An explanation of how the confidentiality of the subject and the subject's records will be maintained
State that absolute confidentiality cannot be guaranteed
List all agencies who may access study records, including: Woman's Health Research Center, Woman's Institutional Review Board, Woman's Research and Development Committee, study sponsor, any federal agencies, and Food and Drug Administration (if applicable)
Explain where data will be kept and how long
Explain if data will be used in later research or shared with other researchers
State that there is mandatory reporting of infectious diseases to the state (if applicable)
If subject data or specimens are to be de-identified using a coding system, explain the system, who keeps the coding key and for how long, and the possibility of re-identification
State that results may be published or presented, but no identifiers will be used (if applicable)
If this is a clinical trial, state that data will be posted on clinicaltrials.gov. Must read EXACTLY: "A description of this clinical trial will be available on http://www.ClinicalTrials.gov, as required by U. S. Law. This Web site will not include information that can identify you. At most, the Web site will include a summary of the results. You can search this Web site at any time."
CONTACT INFORMATION
List whom to contact with questions about the study (include a contact from the study team for questions about the study and a contact from outside the study team for concerns, complaints, and suggestions) and whom to contact in the event of a study-related injury **WITHDRAWAL SECTION**
State that the subject can withdraw from the study at any time without penalty or loss of benefits to which they are otherwise entitled
State whom to contact to safely withdraw from the study, procedures for an orderly withdrawal, and any possible consequences from early termination
IDENTIFIABLE PRIVATE INFORMATION / BIOSPECIMENS (1 of 2 of these statements to be included):
1). "Identifiers might be removed from the data and the data that is not identifiable could be used for future research studies or distributed to another investigator for future research studies without additional informed consent from you or your representative."
2). "Data collected from you as part of the research from which identifiers have been removed will not

be used or distributed for future research studies."

Additional information regarding withdrawal of participants

The consent form should explain that data collected up to the point of withdrawal remains part of the study data and cannot be removed.

A researcher may ask a participant who is withdrawing if the participant wishes to provide continued follow-up data or further data collection subsequent to their withdrawal from the interventional part of the study. The researcher must obtain consent from the participant for their continuing in this aspect of the research and the IRB should approve this consent document. A description of maintenance of privacy and confidentiality of data should be included in this consent form.

If a participant withdraws from the interventional component of the study and does not consent to continued follow-up, the researcher must not access the participant's medical record for any study purposes; however, the researcher may review study data related to the participant prior to the withdrawal and may consult public records.

Signature section:

- The language should be in first person
- Do not include the words "I understand . . ."
- State that the subject will be given a copy of the consent form
- State that the study has been reviewed and approved by an IRB (ICH-GCP requirement)

Include signature and date lines for:

- the subject (or legally-authorized representative)
- the person conducting the consent process
- impartial witness (if the participant or legally-authorized representative is unable to read)

Signatures should be obtained in this order:

1). Participant (or legally-authorized representative) – prior to any study procedures
2). The person conducting the consent process
3). The impartial witness that was present during the entire consent discussion should sign after the study information is read and explained to the participant (or legally-authorized representative) and after the participant (or legally-authorized representative) has orally consented to participate and signed and dated the consent form (if able to do so). The witness attests by signing the consent document that the presented information was accurately explained

and was understood by the participant (or legally-authorized representative) and consent was freely given.

Electronic signatures on consent forms are allowed. All subjects and legally-authorized representatives should be given a signed and dated copy of the informed consent form prior to participation.

Additional consent elements to be included, when applicable:

- A statement that a particular treatment or procedure may involve risks to the subject (or embryo/fetus if the subject is or may become pregnant, or nursing infant) which are currently unforeseeable
- Anticipated circumstances under which the subject's participation may be terminated by the investigator
- Any additional costs to the subject from participating in the research
- Consequences of the subject's decision to withdraw and procedures for an orderly termination of participation
- A statement that subjects will be informed of new findings during the course of the research that may affect their willingness to continue participation
- A statement that biospecimens (even if identifiers are removed) may be used for commercial profit and if the subject will or will not share in those profits
- A statement about whether or not clinically-relevant research results, including individual research results, will be disclosed to subjects
- A statement about if the research might include whole genome sequencing
- An explanation of what the subject should do to avoid pregnancy (if applicable)
- An explanation of the randomization process, if applicable
- An explanation of any procedures that may be used to minimize risks
- If an approved drug or device is used in the study, a statement that it can be made available to the subject without enrolling in the research study.
- A statement about compensation for participation (if available), what the compensation is for (time, inconvenience, etc.), and how/when it is dispersed
- If medical treatment for study-related injury is available, an explanation of what it consists of and where further information may be obtained (for any studies greater than minimal risk),
- State that results may be published or presented but no identifiers will be used

FDA-Regulated Test Articles: For all research involving test articles regulated by the U.S. Food and Drug Administration (FDA), informed consent documents must include a statement that the

purpose of the study includes evaluation, whether for safety and/or effectiveness, of the test article. The consent form must also include a statement that the FDA has access to the subject's medical records.

Legally-authorized Representatives

For determining who may consent as a legally-authorized representative (LAR), refer to Louisiana Revised Statute 40:1159.4, Persons who may consent to surgical or medical treatment: http://legis.la.gov/legis/Law.aspx?d=964700

Miscellaneous requirements

Videotaping/photography

If the study involves photography, video or audiotaping, explain what will happen to the tapes/photographs after the study is completed or if a subject withdraws before completion. Explain where the tapes/photographs will be stored to ensure confidentiality of the data.

Exculpatory language

Informed consent forms may not contain any exculpatory language through which the subject is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigator, sponsor, WHF, or its agents from liability for negligence. Some examples of exculpatory language include:

- By agreeing to this use, you should understand that you will give up all claims to personal benefit from commercial or other use of these substances.
- I voluntarily and freely donate any and all blood, urine, and tissue samples to the investigator and hereby relinquish all right, title, and interest to said items.
- By consent to participate in this research, I give up any property rights I may have in bodily fluids or tissue samples obtained in the course of the research.
- I waive any possibility of compensation for injuries that I may receive as a result of participation in this research.

A statement such as "You are not giving up any of your legal rights by signing this form" is suggested to include in the informed consent form.

Specific Consent Topics

HIV/AIDS testing

If HIV or AIDS testing is to be performed, the informed consent document should include a statement that if results are positive a referral for counseling and medical evaluation will be provided. A statement must also be included that, by law, positive HIV or AIDS tests must be reported to a public health agency. In addition, according to Louisiana law, specific consent is

required to release HIV or AIDS test results to a third party. This consent should be present in the informed consent form and in a consent section of the authorization to release protected health information (HIPAA) form.

Alcohol and drug abuse reporting
According to Louisiana law, specific consent is required to release diagnoses, test results, and records for alcohol abuse, drug abuse, and mental disorders to a third party. This specific consent should be present in the informed consent form and in a specific consent section of the authorization to release protected health information (HIPAA) form.

Ionizing radiation
For studies involving ionizing radiation procedures, any risks should be explained or stated that the risks are comparable to those associated with routine care or are within acceptable limits as dictated by the subject's underlying disease. Risks involving radiation must be described in lay terms.

Genetic testing
Proposals involving the release of genetic test results to participants and/or the participant's physician must offer the option of genetic counseling. Informed consent information should include information about the consequences of DNA typing (example, possible paternity determinations, anxiety, other psychological distress, possibility of job and insurance discrimination).

In addition, according to Louisiana law, specific consent is required to release genetic test results to a third party. An individual is the owner of his/her genetic information. This specific consent should be present in the informed consent form and in a specific consent section of the authorization to release protected health information (HIPAA) form.

According to Louisiana law, specific consent for the release of genetic test results is only valid if it includes the following:
a. Identify the person permitted to make the disclosure;
b. Describe the specific genetic information to be disclosed;
c. Identify the person to whom the information is to be disclosed;
d. Describe with specificity the purpose for the disclosure;
e. State the date upon which the authorization will expire, which in no event shall be more than 60 days after the date of the authorization;
f. Include a statement that the authorization is subject to revocation at any time before the disclosure is actually made; **AND**
g. Include a statement that the authorization shall be invalid if used for any purpose other than the designated purpose.

Tissue banking and use of tissue in research
Whenever samples of tissues, cells, blood, or body fluids are banked for use in research, informed consents should provide descriptions of the following:

a. the specific types of research to be conducted;

b. the conditions under which data and specimens will be released to investigators, including if specimens will be identified or de-identifed
c. whether or not the results will be reported to the subject;
d. if follow-up contact will occur;
e. if commercial products could be developed and whether or not the subject will benefit financially;
f. if the samples may returned to Woman's Hospital Pathology for storage
g. if the subject can have tissues and cell lines destroyed upon request or if limitations exist;
AND
h. procedures for protecting the privacy of subjects and maintaining the confidentiality of the data.

In addition, research studies involving the banking of tissue, cells, blood or body fluids for future research as a **secondary** objective must be optional for the subject. Donation of specimens for use in other research studies is allowed. A specimen donor may donate specimens even if not enrolled in the research study that is using the specimen, as may be useful in pilot studies or studies requiring specimens for technique practice prior to study commencement. A separate donation consent should be performed for these donations and the consent form should include the following elements in addition to those listed above:

a. A statement explaining that the donor is not being enrolled in the research study (if applicable)
b. The purpose of the research study that is using the specimen and what tests will be performed on the specimen, including an explanation of development of cell lines (if applicable)
c. How the donor may withdraw consent for the use of their specimen(s)
d. The title of research study using the donated specimen(s) and the name and contact information of the study investigator
e. A statement that the donation is voluntary
f. A statement explaining that the donation may not take place if the donor's doctor requires the specimen to be sent to histology or is needed for other medical purposes

Investigators wishing to obtain specimen donations for use in research should submit a research application to the Woman's Health Research Center, including a copy of the research protocol, a donation protocol, and a donation consent form. If the donation is for technique practice preparatory to an approved research study, the investigator should submit a revision to the approved protocol.

Use of facsimile or mail to document informed consent and authorization

The IRB may approve a process for non-FDA-regulated studies that allows the informed consent and authorization to release protected health information documents to be sent to the potential subject or legally authorized representative by facsimile or mail and to conduct the consent discussion by telephone when the subject or legally authorized representative can read the consent document as it is discussed. All other applicable conditions for documentation of informed consent must also be met when using this procedure.

Expiration dates

An IRB stamp of approval containing an expiration date will be affixed on all final approved informed consent and authorization to release protected health information documents. Copies of the current, dated documents are the only versions that may be used by investigators in obtaining consent. This procedure helps ensure that only the current, IRB-approved documents are presented to subjects and serves as a reminder to the investigators of the need for continuing review.

Elements of Broad Consent for Storage, Maintenance, and Secondary Research Use of Identifiable Private Information or Identifiable Biospecimens (45CFR46.1169d))

Broad consent (consent for unspecified future research) is permissible only for storage, maintenance, and secondary research use of identifiable private information and/or identifiable biospecimens. Broad consent is an optional alternative that an investigator may choose instead, for example, conducting the research on non-identified information and non-identified biospecimens, having an IRB waive the requirement for informed consent, or obtaining consent for a specific study.

Broad consent is required for exemption categories 7 and 8; however, these exempt categories are not implemented at Woman's at this time. Pending guidance from OHRP, Woman's IRB may choose to reinstate these categories for use in research at the institution.

Broad consent should be appropriately documented or waived, in accordance with 45CF46.117. The researcher should allow the subject (or the subject's LAR) sufficient opportunity to review and consider whether or not to participate, and there should be no coercion or undue influence. Research requiring study-specific consent (such as research involving the collection of data or biospecimens through interaction or intervention with the subject) may sometimes involve obtaining subjects' broad consent for secondary research use.

Although written broad consent generally will be required, the final rule also permits the exemption to apply when broad consent is obtained and an IRB has waived the documentation requirement for written informed consent under Sec.45CFR46.117(c)(1). All elements listed at 45CFR46.11(a)(1)-(4), (a)(6), and (d) should be included in the broad consent form. This list includes the requirement that there be IRB review of the process through which broad consent will be obtained.

The written information given to the subject should be in language understandable to the subject, and this information should be what a reasonable person would want to have in order to make an informed decision about participation in the research. There should be no exculpatory language in the information provided and the subject should not be asked to waive any rights to which they are otherwise entitled.

The following elements are required to be included in broad consent forms:

- A description of any reasonably foreseeable risks to the subject

- A description of any benefits to the subject or others
- A description of how the confidentiality of identifying data or records will be maintained
- A statement that participation is voluntary
- A statement that refusal to participate will not involve any penalty or loss of benefits to which the participant is otherwise entitled
- A statement that the participant may withdraw at any time without penalty or loss of benefits

Additional elements pertaining to broad consent:

- If applicable, a statement that the subject's biospecimens (even if identifiers are removed) may be used for commercial profit and whether or not the subject will share in this commercial profit (46.116(c)(7)).
- A statement regarding whether or not clinically relevant research results, including individual research results, general results, and aggregate results, will be disclosed to the participants, and, if so, under what conditions (46.116(c)(8).
- When appropriate for research involving biospecimens, subjects must be informed of whether or not the research will include or might include whole genome sequencing (46.116(c)(9).
- A description of the types of research that may be conducted with the identifiable information or specimens that includes sufficient information to allow a reasonable person to expect that the broad consent would permit the types of research described.

- A description of the identifiable private information or identifiable biospecimens that might be used in research, whether sharing of this information may occur, and the types of institutions or researchers that might conduct the research

- A description of the period of time that the identifiable private information or identifiable biospecimens may be stored and maintained (may be indefinite) and may be used for research purposes (may be indefinite).

- If applicable, a statement that the participant (or LAR) may not be informed of the details of any specific research studies using their identifiable private information or identifiable biospecimens, including the purpose of the research, and that they may not have chosen to consent to some of those specific research studies.

- An explanation of whom to contact for questions about subjects' rights or to report research-related harm, and questions about the storage and use of the identifiable private information or identifiable biospecimens

For certain types of research, such as those that some participants may find controversial, a more comprehensive description may be required to meet the "reasonable person" standard. If the subject's Legally Authorized Representative is asked to provide broad consent, the broad consent form must satisfy the general informed consent form requirements at 45CFR46.116(a)(1-4)(6) and must include all of the elements that are applicable (required elements of informed consent forms and required elements unique to broad consent forms).