Subject Recruitment Materials: Understanding the Requirements for IRB Review

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Materials used in the recruitment of potential study participants such as advertisements, flyers, and letters are an important and integral part of a research study. They are often the only way for a potential subject to learn about a new clinical trial. Some materials can also be a good tool to provide general information about a study for subjects to consider prior to entering the informed consent process.

The process of study participant recruitment is not specifically addressed in the regulations of either the Office of Human Research Protection (OHRP), which oversees federally-funded research, or of the Food and Drug Administration (FDA), which oversees research which is intended to be submitted in support of a product marketing application. However, both OHRP and FDA regulations require that an Institutional Review Board (IRB) "...shall review and have authority to approve, require modifications in (to secure approval), or disapprove all research activities covered..." by the respective regulations. In addition, both OHRP and FDA have consistently indicated in guidance that the IRB is expected to review the methods and materials that investigators propose to use to recruit study subjects. The question that then arises is: What materials does the IRB have to review?

OHRP & FDA Guidance

OHRP noted in its 2011 "Guidance on Written IRB Procedures" that initial review materials should include, amongst other things, "any recruitment materials, including advertisements intended to be seen or heard by potential subjects." In addition OHRP issued guidance in 2005 titled "IRB Review of Clinical Trial Websites," which states that information posted on a clinical trial website that "goes beyond directory listings with basic descriptive information, such information is considered part of the informed consent process and therefore requires IRB review and approval." The guidance also gives examples of the types of websites that would not require IRB approval as they are only providing directory listings (see below).

The examples provided in "IRB Review of Clinical Trial Websites"[4] of clinical trial listings that do not require IRB approval are:

- the National Institutes of Health (NIH) ClinicalTrials.gov website,
- the NIH National Cancer Institute's cancer clinical trials listing (Physician Data Query [PDQ]), and
- the government-sponsored AIDS Clinical Trials Information Service (ACTIS)."

In 1998, the FDA issued specific guidance titled "Recruiting Study Subjects – Information Sheet." This guidance indicates that in addition to other items the IRB must review, the IRB should also review the "methods and material that investigators propose to use to recruit subjects." The FDA guidance then goes on to discuss different types of recruitment materials, what materials should be reviewed and considered

direct advertising, and what materials do not need to be reviewed by the IRB. The FDA guidance specifically excludes the following from requiring IRB review: "(1) communications intended to be seen or heard by health professionals, such as "dear doctor" letters and doctor-to-doctor letters (even when soliciting for study subjects), (2) news stories and (3) publicity intended for other audiences, such as financial page advertisements directed toward prospective investors." It also specifically excludes the same kind of clinical trial listings that are excluded in the OHRP guidance, but only if the "system format limits the information provided to basic trial information," as on clinicaltrials.gov where data fields must be completed with specific responses and are length-limited.

Another important concept that the 1998 FDA guidance introduces is that the FDA considers advertising to be the start of the informed consent process. By this comment, they implicitly indicate that the regulations and guidance that apply to consent forms in regards to what language should and should not be included in a consent form (e.g. exculpatory language or clearly indicating that the study involves research) extends to language in recruitment materials. Specifically, the FDA indicates that recruitment materials should not include any unduly influential or coercive language, and cannot promise a certainty of cure or benefit beyond what is acceptable for the consent form.

The FDA also states that the IRB should review the mode of the recruitment materials communication, as well as the relative font sizes and other visual effects, and any final audio or video to ensure that the presentation of the information is not inappropriate or overly-promising. For example, the wording "participants will be compensated for their time" may be acceptable, but the statement should not emphasize the payment or the amount by use of larger or bolded type. The guidance also provides some additional examples of language that FDA believes should not be included in the recruitment materials. These examples include using terms like "new treatment" without also indicating that the product is investigational, and referring to "free medical treatment" to mean that the subject will not be charged to participate in the study.

How do I know what recruitment materials I have to submit to the IRB?

Let's break down the regulatory guidances we just reviewed into a clear picture of what the IRB needs to see.

Online clinical trial listings: First, it is important to note that any postings made to the websites specifically listed above do not require IRB review. A common question is whether IRB review is needed if the investigator wants to provide a link to that website, or wants to take a copy of a clinical trial listing and repost it or make a paper copy to distribute. Because of the additional FDA provision that requires that the system format limit the information that can be included if posting online, if the information is being re-listed elsewhere, unless it is in another website with

the same formatting restrictions, the new listing would require IRB review. However, if the re-listing is just a link to the original website post, or the content is just printed as a paper copy, the content is still restricted by the formatting of the original website and no additional IRB review is necessary. This would include an online clinical trial listing that has a list of study site locations at which the research is being conducted.

Websites, such as study-specific or "branded" websites: For websites in which the content of the website is research-related, IRB review should occur for all research aspects of the website. Some IRBs will review information about research that is not specific to a single study as "generic" information; for example, a website for a clinical research site through which people can join a mailing list to be informed of future studies. It is important to note that when IRB reveiw is required, information should not be posted to the website until IRB approval is received. However, other portions of the website that are not specifically related to research recruitment do not require submission to the IRB. This often includes general information about the medical condition being studied and helpful lifestyle practices such as meditation, diet and exercise.

Recruitment materials such as direct advertisements, study brochures, radio and television ads: If the material is intended to be used to recruit subjects into the study, then IRB review is necessary. An investigator should be careful when designing the material to ensure the FDA guidance on Recruiting Study Subjects is followed regarding the content of the material, and the information should clearly indicate that the material is to recruit subjects into a clinical research study.

News stories, letters to health care providers, press releases or other public materials: As noted above, materials that are truly not directed at the potential subject population and are not being used for the purpose of recruiting participants do not need to be reviewed by the IRB. However, this is an area to be careful. News stories such as a glowing profile of a principal investigator in a local paper talking about their exciting new study, or interviews with patients or study subjects, may be perceived as recruitment materials. The IRB cannot review and approve a news story that has already been broadcast to the public. Strict attention to not promoting an investigational drug should be observed.

Use of information that was designed for one purpose, but being used for another

Sometimes materials that are not originally intended to be used to recruit study subjects, such as a news story or other publicity material, are later considered as information to alert potential subjects about an available study. In these cases, once the decision is made to use the material to recruit subjects and is going to be posted or circulated for that purpose, it then becomes advertising. If not previously approved, the information must be submitted to the IRB prior to posting for the new purpose.

Another question that frequently comes up is whether text that is already included in the approved informed consent form can be used as text in an advertisement without additional review by the IRB. The answer to this question is based generally on the FDA's indication that the IRB should review the mode of communication as well as the appearance and other visual effects. Because the IRB has not previously reviewed the material in the context of recruitment/advertising, even if the language is approved in the consent form, the new document must be submitted to the IRB so it can be properly evaluated in the context, appearance and format of the new intended use as recruitment material.

Another common question regards when an advertisement is approved to be used by one study site location, and another study site location wants to use the same advertisement, and just change the contact information, whether the advertisement needs to be re-reviewed if it has already been approved by the IRB. While the advertisement itself has been reviewed and approved by an IRB, each study site location that wants to use the advertisement needs IRB approval to use that advertisement before it is modified and posted.

When the advertisement is approved to be used in one forum, for example posting to Facebook, does the same advertisement need to be re-submitted before being used in other places? If the advertisement will be modified in any way to be posted in a different forum, then it should be re-submitted for the IRB to review any changes, including font size, the addition or removal of pictures, or other modifications. If the advertisement is identical to the version previously used, and will just be posted in a different forum, no additional IRB review is required.

As social media use continues to increase, questions about the use of websites like Facebook and Twitter have also increased. Study teams often ask about informational posts that are made by non-research staff (for example, by patient advocacy groups to inform patients about a study), comments that are posted in response to recruitment information, or when someone not part of the research staff shares or re-posts a recruitment posting. Since the information is not being posted by research staff, and is not under the control of the research staff, review by the IRB is not required. If additional information is going to be posted by research staff, or a post made by non-research staff is going to be re-posted by research staff for recruitment purposes, then it should be submitted to the IRB.

As previously noted, OHRP and FDA consider direct advertising to be the start of the informed consent and participant selection process. This perspective then leads to the next step in the recruitment process, which is having conversations with potential participants who respond to recruitment material and contact the research office. Many research sites rely on scripts for those answering the phones to follow for the collection of information essential to determining eligibility. This research activity also falls under IRB oversight to ensure that the procedures for collecting,

maintaining and sharing information adequately protect the rights and welfare of potential study participants. Such scripts should include a process for securing the caller's consent to answer questions, a description of the information to be collected, what happens to the information and what will be communicated to the caller regarding their eligibility.

Conclusion

Determining whether or not specific recruitment materials need to be submitted to the IRB prior to being used can sometimes be a difficult call to make. In general, it may be helpful to be conservative, and if there is any question, either submit the material to the IRB, or contact your IRB for assistance in determining if the material needs to be submitted for review, being mindful that different IRBs may have different policies regarding review and approval of recruitment materials.

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