UNC SCHOOL OF MEDICINE	Standard Operating Procedure		
SOP 401, Version 1	**Issued by:** SOM CRSO	**Issue Date:** 05.16.2022	**Effective Date:** 06.15.2022

401.1: Obtaining and Documenting Informed Consent from Adult Research Participants

PURPOSE

This SOP describes the process for obtaining and documenting written informed consent from adult research participants or participants' legally authorized representatives.

SCOPE

This procedure applies to all SOM investigators and designated study personnel responsible for obtaining written informed consent from adult research participants or participants' legally authorized representatives.

BACKGROUND

Legally effective informed consent must be obtained from research participants (or their legally authorized representatives (LARs)) prior to their participation in human subjects research unless the IRB has approved a waiver of informed consent as allowed by the federal regulations.[1, 6, 10, 11, 14, 22] The investigator is responsible for ensuring that informed consent is obtained and documented but may delegate this responsibility to members of the study team who are listed as study personnel on the IRB application and appropriately qualified by education, training, and experience. It is essential for investigators to carefully establish consent procedures and implement any necessary safeguards needed to ensure the rights of research participants.

Informed consent is a process that begins with the recruitment and screening of a potential participant, includes the signing of the IRB-approved informed consent form (ICF), and continues throughout the participant's involvement in a research study and often even beyond study termination. The participant or LAR must be provided with relevant information and be given the opportunity to provide ongoing voluntary consent during the study. Additionally, any modifications to study procedures or discovery of new information that may affect participants' willingness to continue in the study or affect former participants must be communicated to the participants as part of the ongoing informed consent discussion, as determined by the IRB.

Note: Throughout the remainder of this SOP, any informed consent procedures referencing participants apply equally to the participant or the participant's LAR.

PROCEDURE

1. **Prepare for the informed consent discussion**
   a. Print or otherwise prepare one or more copies of the currently IRB-approved version of the ICF(s).
      i. Do not cross-out or write-in any information on the ICF.
   b. If feasible and applicable to the nature of the study, provide the ICF to the participant prior to the initial consent discussion to allow an opportunity for them to review the form in advance.
2. **Conduct the informed consent discussion**
   a. Provide the ICF to the participant so that they may follow along during the discussion.

b. Begin with a discussion of key information about the study, using the concise summary included at the beginning of the ICF.[1]
c. Continue with the informed consent discussion, verbally addressing each section of the ICF.[1, 7, 12 (GCP 4.8.10), 19]
    i. Provide prospective participants with information that a reasonable person would want to have to make an informed decision to participate or not.[18]
    ii. Present the information in a neutral manner without leading the participant to make a particular decision.[12 (GCP 4.8.3)]
    iii. Present information in a way that the prospective participant can understand.
    iv. Do not use exculpatory language through which the participant is made to waive or appear to waive any of their rights, or that releases or appears to release the investigator, the sponsor, the institution, or its agents from liability for negligence.[11, 10, 12 (GCP 4.8.4), 15]
d. Assess consent capacity of participants throughout the informed consent process to ensure that they understand information relevant to making an informed and voluntary decision about study participation. This may be completed by asking open-ended questions about the information or using the teach-back method (i.e., asking participants to explain in their own words what they need to know or do).
e. Offer sufficient time for prospective participants to read the ICF and further consider participation (sufficient time will vary depending on the nature of the study and the individual participants).[12 (GCP 4.8.7)]
f. Ask prospective participants if they have any questions related to the study or the decision to participate; if unable to answer questions sufficiently, consult with the investigator or other study team member(s) to obtain and offer sufficient explanation.[12 (GCP 4.8.7)]

3. **Document informed consent** [2, 8]
    a. Obtain written documentation of the participant's IC.
        i. If the participant decides to participate, ask them to write their name, signature, and date the ICF (Note: The date cannot be written-in by the person obtaining consent).[12 (GCP 4.8.8)]
        ii. Review the ICF to ensure the participant provided the requisite signature, printed name, correct date, and any additional signatures or initials (as applicable).
        iii. The person obtaining consent must also sign and date the ICF at the time of the consent.[12 (GCP 4.8.8)]
        iv. Retain a signed copy of the ICF for the study record and provide the participant with a signed copy of the ICF (may be photocopied or may have two identical ICFs signed).[12 (GCP 4.8.11)]
    b. Document the informed consent discussion/process, including but not limited to who obtained the IC, when the IC was obtained (data/time), and how the IC was obtained. This documentation may be accomplished by:
        i. completing a form or checklist, [(Appendix A)] and/or
        ii. including a contextual note in the research record or electronic medical record. (Appendix B, Appendix C)

c. Review all consent documentation for completeness prior to filing in the study record. Document, correct, and if applicable, report to the IRB any discrepancies, missing or incomplete entries identified following informed consent.
d. File a copy of the ICF in the participant's health care record in accordance with the IRB-approved plan.[22] (Section 2.14.1)
    i. At the time of IRB review, the IRB, in consultation with the PI, determines the appropriateness of including the ICF in the health care record. Generally, a copy of the ICF should be placed in the participant's medical record if any of the study-related activities may have an effect, adverse or otherwise, on the clinical treatment of the participant.

4. **Maintain informed consent**
    a. Verify (and document, as applicable) the participant's understanding of key study information throughout the participant's involvement in the study.
        i. If participants make incorrect statements about any elements of the study, take the opportunity to reeducate.
        ii. If participants have concerns about ongoing participation, remind them that they have the right to withdraw at any time with no penalty.
5. **Provide participants with new information, as applicable**
    a. Recognize and identify any new information that should be communicated to current or former participants (e.g., changes in study procedures, identification of new risks, availability of new alternative therapies, etc.)
        i. If it is determined that new information should be communicated to participants, provide the IRB with a detailed notification plan (which participants require notification, how notification will occur, etc.) and an updated consent document if re-consent is warranted.[12] (GCP 4.8.2)
            1. Communication of new information may be accomplished through re-consent, verbal discussion, letter, or addenda, dependent on the type of information to be shared, the status of participants in the study and whether participants need to document that they wish to remain in the study.[16, 17]
            2. Immediate verbal notification of new information may occur without prior IRB approval if necessary to eliminate apparent immediate hazards to participants; in this case, the IRB must be promptly notified.
6. **Document withdrawal of consent, as applicable**
    a. If a participant chooses to withdraw their consent, document the details about the withdrawal in the study record.
7. **Prepare for other circumstances**
    a. Deviations to this procedure are allowed as explicitly approved by the IRB (e.g., remote consent, short form consent, verbal consent, emergency research, waivers of consent).
    b. Electronic informed consent (eIC) may be utilized in some circumstances.[24]
        i. The UNC Human Subjects Research instance of DocuSign may be utilized to obtain remote adult eIC for non-FDA regulated or FDA-regulated research studies
            1. Ensure appropriate utilization of either the standard account or the Part 11 compliant account.

ii. REDCap or Qualtrics may be utilized to obtain eIC for non-FDA regulated research studies when the study involves survey-only procedures.
iii. Ensure that the eIC process is approved by the IRB.
iv. Any other eIC platforms must be reviewed and approved by the UNC Office of the Vice Chancellor for Research and the departmental informational security liaison prior to utilization.

c. Inclusion of vulnerable populations (i.e., anyone vulnerable to the possibility of coercion or undue influence) in research requires additional considerations and procedures, as well as IRB review. [23]

d. If enrollment of participants with or at risk of impaired decision-making is anticipated, ensure that IRB-approved procedures are in place for assessing consent capacity and obtaining surrogate consent from an eligible LAR.[22, 23]
   i. When surrogate consent by an LAR is required, procedures for seeking assent from the participant should be implemented to the extent feasible.
      1. Consider the complexity of the research and the ability of participants to understand the information in determining the mechanism for assent.
      2. Honor the decision of a participant to decline participation or withdraw from the study. If a participant dissents but the LAR wishes them to participate, consult with the IRB, as exceptions may be granted.
      3. Provide justification in the IRB application when assent will not be obtained (e.g., the participant is in coma, or cannot otherwise participate in an assent process).
   ii. If the participant's decision-making capacity is expected to change (diminish, return, fluctuate) during the study, ensure that IRB-approved procedures are implemented to manage the change including but not limited to the following:
      1. Re-evaluate decision-making capacity at regular intervals.
      2. Include a future LAR in the initial consent discussion with a participant at risk for diminishing decision-making and ensure that the participant's wishes regarding the research are memorialized.
      3. Inform the participant regaining capacity regarding their participation and to seek consent for ongoing participation, if applicable.
   iii. Consult with the IRB if enrollment of individuals with impaired consent capacity or at risk of impaired consent capacity is not expected (and not approved by the IRB) and the study encounters a prospective participant whose capacity to consent is questionable or an enrolled participant experiences a change in consent capacity.

e. Prepare the ICF in a language understandable to the prospective participant.[12 (GCP 4.8.6)]. The investigator or individual designated to obtain consent should be fluent in the participant's language, or an interpreter must be available during the consent process and throughout the participant's involvement in the research. For the occasional and unexpected prospective participant who does not speak English or has limited English-language proficiency, use the short form method. [21, 22 (Sections 2.6, 2.7)]

f. A prospective participant who speaks and understands English, but is unable to read may be enrolled using the short form method and marking their mark on the short form to signify consent.[21, 22 (Sections 2.6 & 2.7)]

DEFINITIONS

- Consent capacity: An individual's ability to understand information relevant to making an informed, voluntary decision to participate in research.[13]
- Good Clinical Practice (GCP): International ethical and scientific quality standard for the design, conduct, performance, monitoring, auditing, recording, analyses, and reporting of clinical trials that provides assurance that the data and reported results are credible and accurate, and that the rights, integrity, and confidentiality of trial participants are protected.[12 (GCP 1.24)]
- Electronic informed consent (eIC): The use of electronic systems and processes that may employ multiple electronic media (e.g., text, graphics, audio, video, podcasts and interactive Web sites, biological recognition devices, and card readers) to convey information related to the study and to obtain and document informed consent.[4]
- Informed Consent (IC): A process by which a participant voluntarily confirms their willingness to participate in a study, after having been informed of all aspects of the study that are relevant to the participants' decision to participate. Informed consent is documented by means of a written, signed and dated informed consent form..[12 (GCP 1.28)]
- Informed Consent Form (ICF): A written form approved by the IRB and signed (including in an electronic format, as applicable) by the participant, the participant's legally authorized representative, or parent/guardian that documents the informed consent. The informed consent form may be either of the following:
    - A written consent document that embodies the required elements of informed consent. Also referred to as the long form.
    - A short form written consent document stating that the required elements of informed consent have been presented orally to the subject or the subject's legally authorized representative.[2, 8]
- Legally Authorized Representative (LAR): An individual or juridical or other body authorized under applicable law to consent, on behalf of a prospective participant, to the participant's participation in the procedure(s) involved in the research.[3, 9]
- Legally Effective Informed Consent: Informed consent obtained from the participant or the participant's legally authorized representative and documented in a manner that is consistent with federal human subjects regulations and with applicable laws of the jurisdiction in which the research is conducted.[14]
- Key information: A concise and focused presentation to open the Informed Consent (IC) process that is most likely to assist a prospective participant, Legally Authorized Representative (LAR), parent(s), or guardian in understanding the reasons why one might or might not want to participate in the research. Key information must be organized and presented in a way that facilitates comprehension. The Concise Summary section of UNC-Chapel Hill Institutional Review Board's (IRB's) Informed Consent Form (ICF) template includes guidance on what to key information to include and examples of key information summaries. [1]
- Short form: A written informed consent form used in short form consent stating that the elements of informed consent have been presented orally to the person providing informed consent.[2, 8]
- Short form consent: An alternative method of documenting informed consent in which the elements of informed consent are presented orally to the participant, the participant's

Legally Authorized Representative (LAR), or parent/guardian in conjunction with a short form. An impartial witness must be present to attest to oral presentation. Also, the IRB must approve a written summary of what is to be said to the person providing informed consent (the informed consent form that embodies all the required elements of informed consent, also known as the long form, may serve as the summary). Only the short form itself is to be signed by the person providing consent. The person obtaining consent must sign a copy of the summary. The witness shall sign both the short form and a copy of the summary. A copy of the summary is provided to the person providing consent in addition to a copy of the short form. [2, 8]

- Written: Writing on a tangible medium (for example, paper) or in an electronic format.

ASSOCIATED POLICIES, REGULATIONS, GUIDELINES

1. Common Rule, 2018 Requirements: 45 CFR 46.116, General Requirements for Informed consent
2. Common Rule, 2018 Requirements: 45 CFR 46.117, Documentation of Informed Consent
3. Common Rule, 2018 Requirements: 46.102, Definitions for the Purposes of this Policy
4. FDA and OHRP: Use of Electronic Informed Consent Questions and Answers, Guidance for Institutional Review Boards, Investigators, and Sponsors
5. FDA: 21 CFR 11, Electronic Records, Electronic Signatures
6. FDA: 21 CFR 50, Subpart B, Informed consent of Human Subjects
7. FDA: 21 CFR 50.25, Elements of Informed Consent
8. FDA: 21 CFR 50.27, Documentation of Informed Consent
9. FDA: 21 CFR 50.3, Definitions
10. FDA: Draft Guidance, Informed Consent Information Sheet, Guidance for IRBs, Clinical Investigators, and Sponsors
11. FDA: Information Sheet, A Guide to Informed Consent, Guidance for Institutional Review Boards and Clinical Investigators
12. ICH GCP E6 Guideline for Good Clinical Practice (GCP)
13. NIH: Research Involving Individuals with Questionable Capacity to Consent: Points to Consider
14. OHRP: Informed Consent FAQs
15. OHRP-FDA: Draft Guidance on Exculpatory Language in Informed Consent
16. Secretary's Advisory Committee on Human Research Protections (SACHRP) recommendations to the HHS Secretary and Office of Human Research Protections (OHRP)(April 7, 2020): Attachment A – New Information Provided to Previously Enrolled Research Subjects
17. Secretary's Advisory Committee on Human Research Protections (SACHRP) recommendations to the HHS Secretary and Office of Human Research Protections (OHRP)(April 7, 2020): Attachment A2 – Reconsent Appendix 2, Additional Information Scenarios and Suggested Options
18. Secretary's Advisory Committee on Human Research Protections (SACHRP) recommendations to the HHS Secretary and Office of Human Research Protections (OHRP)(November 13, 2018): Attachment C -New "Key Information" Informed Consent Requirement

19. UNC-CH CRSO: Guidance and Tips, Required Elements of Informed Consent
20. UNC-CH CRSO: Guidance and Tips, Tips on the Remote Consent Process
21. UNC-CH OHRE: Short Form Consent Guidance
22. UNC-CH OHRE: SOP 1101, Obtaining Informed Consent from Research Subjects
23. UNC-CH OHRE: SOP 1201, Vulnerable Subjects in Research
24. UNC-CH Enterprise Standard Operating Procedures for the Usage of DocuSign for Human Subjects Research

Additional requirements specific to applicable clinical trials:

- Common Rule, 2018 Requirements: 45 CFR 46.116(h), Requirements for posting clinical trial consent forms for FDA-supported trials
- FDA: 21 CFR 50.25(c), Statement of disclosure specific to trial information included on clinicaltrials.gov
- FDA: Guidance for Sponsors, Investigators and Institutional Review Boards, Questions and Answers on Informed Consent Elements, 21 CFR § 50.25(c)
- OHRP: Guidance, Clinical Trial Informed Consent Form Posting

Revision History		
Version	**Effective Date**	**Change Summary**
1	06.15.2022	New

Appendix A: Template checklist for documenting the informed consent discussion

Template may be adapted or modified as needed.

IRB Study #: _____ Participant Initials: _____ Study ID: _____

Please initial next to "Yes" or "No" by each line as appropriate. If "No," an explanation must be provided in the notes section below.

_____Yes	_____No	A concise and focused presentation of the key information was provided.
_____Yes	_____No	The details of this research study were discussed, including an explanation of the required elements of the ICF.
_____Yes	_____No	It was emphasized that study participation is voluntary, that the participant's clinical care would not be affected if study participation is declined, and that the participant may withdraw consent at any time.
_____Yes	_____No	The ICF was provided in the preferred language.
_____Yes	_____No	Ample time was provided for reading the consent document and questions were encouraged.
_____Yes	_____No	All questions and concerns were addressed to the satisfaction of the participant (or LAR).
_____Yes	_____No	The PI or Co-I was available for questions.
_____Yes	_____No	The participant (or LAR) reviewed the current IRB approved consent document(s) and agreed to participate. Specify ICF version and date/time signed below.
_____Yes	_____No	A copy of the signed consent document was provided to the participant and/or LAR.
_____Yes	_____No	No procedures specifically related to the study were performed prior to the participant signing the consent document.
_____Yes	_____No	A copy of the signed consent document was placed in the participant's research file. If a copy was also placed in the medical record, specify in Notes.

The participant or the participant's LAR signed the following consent documents (notations of date and time should indicate when the ICF was signed):

☐ Main Study ICF, Version: _____Date: _____Time: _____

☐ Other ICF, Specify: _____ Version: _____ Date: _____Time: _____

☐ Other ICF, Specify: _____Version: _____ Date: _____Time: _____

Additional Notes:

Additional Notes may include,

- *People who were present during the consent discussion, such as the participant, an LAR, the person obtaining consent, relative(s), PI, study coordinator, interpreter, witness, etc.)*
- *any questions or concerns raised during the consent discussion*
- *use of a verbal consent process, LAR or the short form method*

Signature of Person Completing the Note **Date** **Time**

Appendix B: Template contextual note for documenting the IC discussion in the study record

Template may be adapted or modified as needed.

IRB Study #: _____ Participant Initials: _____ Study ID: _____

A concise and focused presentation of the key information was provided. The details of this research study were discussed with the participant, including an explanation of all of the elements of the ICF. It was emphasized that study participation is voluntary, that the participant's clinical care would not be affected if study participation is declined, and that the participant may withdraw consent at any time. The participant was given opportunity to read the informed consent form in the participant's preferred language and to ask questions.

All questions and concerns were addressed to the satisfaction of the participant. The participant verbalized understanding of the information and agreed to participate prior to any study-related procedures. The participant signed and dated the currently approved main ICF [version]; other ICF(s) [version(s)] and the HIPAA Authorization form [version], as applicable, on [date and time] prior to any study procedures being conducted and received a copy of the signed forms.

Additional Notes:
Additional Notes may include,

- *People who were present during the consent discussion, such as the participant, an LAR, the person obtaining consent, relative(s), PI, study coordinator, translator, witness, etc.)*
- *any questions or concerns raised during the consent discussion*
- *use of a verbal consent process, LAR or the short form method*

_____ _____ _____

Signature of Person Completing the Note **Date** **Time**

Appendix C: Template contextual note for documenting the IC discussion in the EMR

Template may be adapted or modified as needed.

Initial Consent Discussion:

Dr. _____ and I met with participant _____to discuss consent for _____. The protocol was reviewed, including discussion of risks & benefits, that the treatment involves research, review of charges covered / not covered by study, medications/treatments used, procedures involved including optional procedures, confidentiality, time commitments involved, study contact list, the option to withdraw at any time, and required use of birth control (as applicable).
Alternatives to study participation were discussed and the participant was given reasonable time to consider participation in the study, in the absence of coercion or undue influence. The participant was offered an opportunity to ask questions and these questions were answered. The participant verbalized understanding of information presented.

The participant has signed the main informed consent form (ICF), _____ [version]; other ICF(s) _____ [version(s)] and the HIPAA Authorization Form [version], as applicable, in my presence, prior to any study procedures being conducted. Copies of the informed consent form(s) and HIPAA Authorization Form were given to the participant.

The ICF(s) and HIPAA Authorization Form were uploaded into the participant's electronic medical record. The signed and dated ICF(s) and HIPAA Authorization Form will be kept in _____. Every effort to maintain confidentiality will be employed.

Date: _____ Time: _____
Other ICF(s), HIPAA Form Signature: Same date, time and signature as above

Reconsent:

Dr. _____ and I met with participant _____ to discuss reconsent for _____. Changes to the study, including any changes in risk, procedures, treatments, and time commitments were reviewed. The participant was reminded of the option to withdraw at any time. Alternatives to study participation were discussed again. The participant given reasonable time to consider continued participation in the study in the absence of coercion or undue influence. The participant was offered an opportunity to ask questions and all questions were answered. The participant verbalized understanding of the new information presented and indicated their wishes to continue the study.

The participant has signed the ICF in the presence of the researcher obtaining informed consent. A copy of the consent form was given to the participant. A copy was submitted to UNC Health Information Management for upload into the participant's electronic medical record. The signed and dated ICF will be kept in _____. Every effort to maintain confidentiality will be employed.

Date: _____Time: _____