

- A finding that disclosure of the conflict to subjects or others is necessary.
- A finding that controls on the conflict need to be put into place, such as limiting the role of the investigator with a conflict of interest.
- A finding that the conflict is unacceptable, and must be eliminated in order for the research to proceed.
- Other.

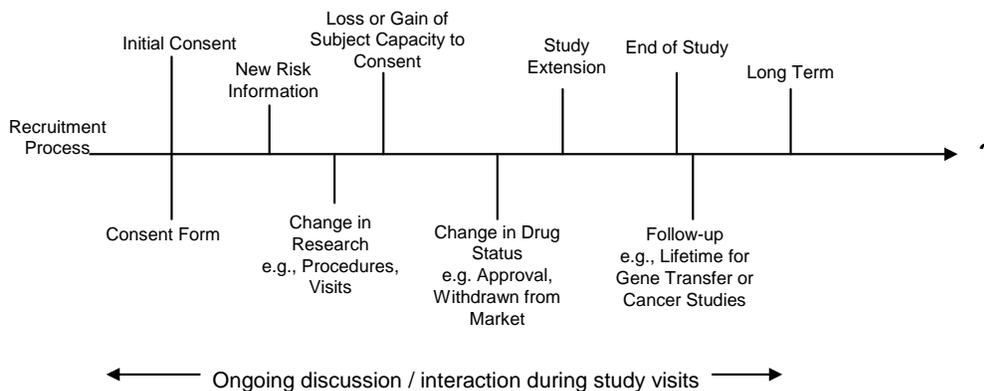
5. The Informed Consent Process

The informed consent process is central to the ethical conduct of research. It is an ongoing conversation between the human research subject and the researchers that begins before consent is given and continues until the end of the subject's involvement in the research (see consent process diagram, below). There are various tools for the investigator to use to optimize this conversation, but the most important feature of informed consent is the investigator commitment to the process.

A. Goals of the informed consent process

- Give the subject **information** about the research
- Make sure the subject has **time** to consider all options
- Answer all of the subject's **questions** before the decision is made
- Make sure that all information is **understood** by the subject
- Obtain the subject's voluntary informed **consent** to participate
- **Continue to inform** the subject throughout the research study
- **Continue to re-affirm subject consent** to participate throughout the research study

B. Consent Process Diagram



C. Tools an investigator might use to assist the informed consent process

- Consent Form -- also called Informed Consent Form (ICF), Informed Consent Document (ICD) or Patient Consent Form (PCF)*
- Pamphlets or other reading materials*
- Internet information*
- Instruction sheets*
- Audio-visual presentations*
- Charts or diagrams*
- Discussions
- Consultation with others

* These items require IRB review before use.

D. Investigator responsibilities in regard to informed consent

- Obtain consent before initiating study-specific procedures.
- Provide a **quiet, comfortable, and private setting** for the informed consent process whenever possible.
- **Explain** the consent process to the subject.
- Make sure the subject has **time to consider** all options; allow subject to take the form home before signing (whenever possible).
- Consider the **subject's reading abilities**. Check to make sure WIRB has not disallowed subjects unable to read. If enrollment of limited or non-readers is allowed, involve an impartial witness in the informed consent process.
- **Answer all questions.**
- To the extent possible, make sure the subject **understands enough information** about the research study to give informed consent.
- To the extent possible, make sure the subject can consent **free from coercion or other undue influence**.
- Since the informed consent process continues throughout the subject's participation in the study, **consent should be informally verified on a continuing basis**.
- **Significant new information** must be given to the subject, and continuing consent documented in some way; for example, new risk information presented to the subject in an addendum to be signed by subjects who agree to continue to participate.

E. Issues to consider during the consent process

- Was the subject alert and, in your opinion, able to read and understand the language in the consent form?
- If the subject was unable to read the consent form, and limited or non-readers were allowed to participate, did you have an impartial witness present for the entire process? (An impartial witness is someone with adequate reading

ability who is independent of the trial, who cannot be unfairly influenced by people involved in the trial, who attends the informed consent process while the consent form is being read to the subject, who reads the informed consent form and any other written information supplied to the subject, and who is willing to attest to this by signing the consent form.)

- If the subject is not fluent in English, was an approved translation of the consent form provided in the primary language of the subject? Was there also a bilingual translator present to assist with the informed consent process? Note: a translator alone is not considered adequate.
- Was the subject under any pressure (for example, family pressure, lack of medical insurance) to participate in the research? Was this discussed?
- Did the subject take time to carefully read the consent form, or read it along with you?
- Were the risks as set forth in the consent form carefully explained to the subject?
- Are there any other risks or concerns not stated in the consent form and were these explained to the subject?
- Was the subject asked if he or she had any questions about the study?
 - Did the subject have any questions or concerns?
 - Were the subject's questions answered?
 - Was the subject satisfied with the answer(s) they were provided?
- Did the person conducting the consent discussion check for subject understanding by asking some basic questions about the research? Did the responses reflect adequate understanding?
- Did the subject express a clear decision to proceed with the study?
- Was the consent form signed by the person who conducted the informed consent discussion?
- Was the consent form signed by a witness (if required)?
- Was the consent form signed by the Principal Investigator (if required)?
- If a Legally Authorized Representative is allowed to sign for the subject, were additional concerns about the subject's understanding and assent considered and addressed?

F. Consent by Legally Authorized Representatives

The laws regulating who can consent for *adults* who lack the capacity to consent for themselves are defined at the state level and vary from state to state. Persons who can consent for adults who lack the capacity to personally provide informed consent are known as Legally Authorized Representatives (LARs). See 45 CFR 46.102(c) and 21 CFR 50.3(l). Such trials, unless an exception is justified, should be conducted in individuals having a disease or condition for which the investigational product is intended.

WIRB's initial review submission forms solicit information about plans for use of LARs from investigators who plan to enroll adults who lack the capacity to consent for themselves. Sites should be able to explain how they determine which individuals meet

the criteria for being a Legally Authorized Representative (LAR) under their state/provincial and local law. WIRB can provide a copy of the relevant statutes for your state upon request; however, advice from your legal counsel is strongly recommended. Sites should also be able to explain the process they use for verifying that an individual is qualified to serve as an LAR.

If the site's state/provincial/local laws regarding Legally Authorized Representatives are difficult to interpret, the sites may provide the Board with a letter from legal counsel which includes a statement such as the following: "The individuals who are authorized under state law to consent on behalf of a prospective subject to that subject's participation in the procedures involved in this research protocol are _____."

G. Consent by Subjects Who Cannot Physically Sign the Consent Form (due to physical impairment)

WIRB does not require a Legally Authorized Representative to provide consent for subjects who are *cognitively capable* of consenting, but *physically unable* (for example, due to paralysis). In those cases, obtaining consent from the subject with the assistance of a witness is usually sufficient. WIRB can provide additional guidance for these situations upon request.

H. Waivers of Consent for non-FDA studies

If you are requesting a waiver of consent and the research is not an FDA regulated study, then criteria from 45 CFR 46.116(d) must be met:

1. The research involves no more than minimal risk to the subjects.
2. The waiver or alteration will not adversely affect the rights and welfare of the subjects.
3. The research could not practicably be carried out without the waiver or alteration.
4. Whenever appropriate, the subjects will be provided with additional pertinent information after participation.

WIRB applies this standard to all requests for waiver of consent for non-FDA regulated research.

If you are a covered entity under HIPAA, please complete the WIRB form "Request for Full Waiver Authorization Under HIPAA" available on the [Download Forms page](#) of www.wirb.com.

I. Waivers of Consent for FDA studies

For FDA regulated studies, waiver of consent must meet requirements of either 21 CFR 50.23 (a) - (c) (waiver of consent for individual emergency use) or 21 CFR 50.24 (emergency research without consent), or FDA guidance issued 04-25-2006 for In Vitro Diagnostic Device Study Using Leftover Human Specimens That Are Not Individually Identifiable.

For individual emergency waivers of consent, prospective IRB approval is not always necessary if a patient's life can be saved. See the FAQ on www.wirb.com titled "What is the difference between "Emergency Use" and "Treatment Use," and how do I determine which situation I have?" for more information, or refer to 21 CFR 50.23 (a)-(c).

If you are a covered entity under HIPAA, please complete the WIRB form "Request for Full Waiver Authorization Under HIPAA" available on the [Download Forms page](#) of www.wirb.com.

J. Waiver of Documentation of Consent

A waiver of documentation of consent is a waiver of the requirement for a signature on a consent form. The regulations allow the Board to approve this type of waiver if:

- The research is of minimal risk and involves no procedures for which written consent is usually required; or
- The only record linking the subject and the research would be the consent document and the principal risk of the research is the risk of breach of confidentiality.

Subjects enrolling in a study under this type of waiver must be provided with the elements of consent required by the regulations and subjects must consent to participate.

The Board will need to review the information that is provided to subjects to obtain consent to ensure that the required elements of consent are included in the consent discussion. Investigators requesting a waiver of documentation of consent must submit a written statement or script of this information for the Board's review. A template "Information Sheet" is available on the [Download Forms page](#) of www.wirb.com.

If your organization must comply with the Federal Privacy Rule (HIPAA), and the research requires you to use or share identifiable health information, the Information Sheet described above includes the required elements of an authorization. However, you should also request a Waiver of Authorization so the Board can determine whether it can waive the requirement for a signature on the authorization for use and disclosure of Protected Health Information. The WIRB form "Request for Full Waiver Authorization Under HIPAA" available on the [Download Forms page](#) of www.wirb.com.

K. Assent

When a subject may not be able to legally consent to research participation, a Legally Authorized Representative provides the consent for the subject. However, WIRB usually also requires that subjects who are not able to consent for themselves assent to participation if possible. "Assent" means a subject's affirmative agreement to participate

in research. An investigator should not interpret a subject's failure to object as "assent" unless the subject has also affirmatively agreed to be in the research.

Assent is usually required for research involving *underage subjects* and research involving *adults with diminished capacity*. Assessing an adult's capacity to consent may be somewhat difficult, depending on the subject's medical/mental condition and the requirements of the protocol. If the investigator anticipates that some subjects may be able to consent while others may not, the investigator should establish a process to assess capacity.

Whenever there is doubt about capacity, the subject is best protected by involving a Legally Authorized Representative who knows the subject and is willing and able to participate in the informed consent process with the potential subject.

Assent is not a legally binding action, but within research ethics it is used to signify the agreement of the potential subject to participate in the research. WIRB will usually indicate which subjects' assent must be obtained and the method by which assent is to be obtained. The usual direction is as follows:

- Assent is not required for subjects 6 years and younger
- Verbal assent is required for subjects ages 7 through 14 years using the assent section below and the information sheet for children.
- Verbal assent is required for subjects ages 15 through 17 years using the Assent section below and the information sheet for adolescents (the reference to "17 years old" is modified by the Board when the local age of majority is not 18).
- Adults, assent is required, when the adult is capable, using the assent section in the Consent form.

ASSENT SECTION:

Statement of person conducting assent discussion:

1. I have explained all aspects of the research to the subject to the best of his or her ability to understand.
2. I have answered all the questions of the subject relating to this research.
3. The subject agrees to be in the research.
4. I believe the subject's decision to enroll is voluntary.
5. The study doctor and study staff agree to respect the subject's physical or emotional dissent at any time during this research when that dissent pertains to anything being done solely for the purpose of this research.

Signature of Person Conducting
Assent Discussion

Date

Statement of Parent or Guardian:

My child appears to understand the research to the best of his or her ability and has agreed to participate.

Signature of Parent or Guardian

Date

These instructions are modified by the Board when needed, to reflect the Board's assessment of subject condition and the potential risks and benefits facing the subject.

In order to assent, a subject must have at least a basic understanding of what might be asked of them in the research and what might happen. The information sheet should present this in simple wording and format.

The additional challenges an investigator faces in the assent process depend on the level of understanding the subject may be able to achieve. This will vary with each individual potential subject. An investigator may be able to obtain information about the subject's ability to understand from the person providing consent.

Recognition of the potential for unintended "coercion or undue influence" or "intimidation" is essential for the assent process. The person obtaining assent must take extra care to minimize these aspects of the communication between subject and researcher. At times this may mean having a different individual conduct the assent process in order to optimize the communication.

WIRB initial review submission forms ask sites if they plan to enroll **wards of the state**. Federal regulation 45 CFR §46.409 outlines special requirements for the involvement of wards in research. Sites that plan to enroll wards may be required to provide a plan for

appointing an advocate for each subject. Some state and local laws also further restrict enrollment of wards in research.

L. The Consent Form

The primary informed consent tool that involves both the researcher and the IRB is the consent form. This document is used in all research for which there is no approved waiver of consent. Thus, most research will involve use of an IRB-approved consent form.

An approved consent form must comply with several regulatory requirements:

- The required elements (as defined by the regulations) must be appropriately included.
- The content of the consent form must be understandable to a non-scientist.
- No waiver of rights or other exculpatory wording may be present or appear to be present in the consent form.

Satisfying the above requirements presents a joint challenge to the IRB and the investigator. In order to obtain WIRB approval of a consent form, the investigator may opt to do one, or a combination, of the following:

- Submit a *sponsor template* consent form for review (for multi-center studies, the sponsor template has often already been submitted to WIRB and reviewed)
- Submit an *investigator-written* consent form for review
- Request WIRB write the consent form

i. Some general guidelines for writing a consent form

Consent templates and/or outlines are available from WIRB, as well as from some NIH groups such as NCI, and other sources. See [Appendix 1](#) for a *sample Consent Template*. Consent templates provide a framework and structure upon which to build a consent form.

- Consent forms should be written in simple, non-technical language for readers of a seventh-grade reading level who may not have taken science courses in school.
- Use the term “subject” rather than “patient” (the term “participant” may be used in some behavioral research).
- Avoid statements that suggest any waiver of subject rights or release from liability of the investigator or sponsor.
- Avoid use of “I understand” or “you understand” language as this may imply a level of understanding that is not present, and may discourage questions,
- Write all of the consent form except the consent section in the second person (“you are asked to”) rather than first person or third person.
- The consent section should be written in first person (“I consent to...”).
- Avoid wording that is, or may seem to be, coercive or overly reassuring to a potential subject.

- Do not make claims of safety or efficacy for investigational articles or procedures.
- Try to avoid the use of the terms “treatment,” “therapy” or “therapeutic” (because these words may imply effectiveness).

ii. Consent form elements

The following is a list of the usual elements of a consent form (*including elements required by 21 CFR § 50.25; 45 CFR § 46.116; E 6 GCP 4.8.10*).

Introductory Information and Purpose

- Explain the research study and the expected duration of subject participation, and include the approximate number of subjects involved in the study.
- Reassure readers that it is appropriate to ask questions, and that they may take the form home for consideration (if appropriate for the given research).
- State clearly that the study is research.
- State the status of the test article based on the country where the research is being conducted; for example, in the U.S., drugs are “*approved*,” vaccines are “*licensed*,” and devices are “*cleared*” or “*approved for marketing*,” otherwise they should be designated as “*investigational*.”
- State the purpose(s) of the research; for example, drug protocols usually test for safety, tolerability and effectiveness.
- State why the person is being asked to participate in the study; for example, “You are being asked to participate in this study because you have been diagnosed with...”

Description of Study/Procedures

- Describe the visits and procedures (in agreement with the protocol), indicating which procedures are experimental.
- Briefly describe the study’s design; for example, “This is a dose escalation study. As subjects participating in the study tolerate a specific dose level, the new subjects entering the study will be given a higher dose of the study drug.”
- Explain the method used for determining if subjects will receive study drug or placebo, the method for assigning them to a group, and explain the chance of assignment to each group in the study.
- State the number of visits.
- Explain the length of study participation.
- Explain what happens at the visits. It is not necessary to list the procedures visit-by-visit, as detailed descriptions can result in an unnecessarily long consent form.
- Outline any additional participation requirements such as contraception requirements or prohibited activities.

Risks and Discomforts

- Describe any reasonably foreseeable risks and discomforts to the subject. Risks and discomforts must be stated in non-technical, layperson’s language.

- Provide the risks related to all drugs required by the protocol, including rescue medications, over-the-counter analgesics, and approved control group drugs.
- Include the possibility of allergic reactions and that serious allergic reactions can be life-threatening.
- Describe the risks and discomforts of invasive or unusual procedures, including protocol- required biopsies.
- Describe the risks and discomforts of blood draws, if subjects will have blood drawn.
- Include a statement explaining that there may be risks of participation and side effects which are still unknown.
- Whether known or unknown, explain the risks to women who are pregnant or who become pregnant during the study.
- Include a statement that unknown risks and discomforts are possible; if appropriate, include unknown risks to an embryo or fetus if a subject (or a subject's partner) is or becomes pregnant.
- Where applicable, include the risk that the subject's condition may worsen while they are in the study (whether assigned to active drug or placebo).
- If the study drug will be taken home and there is no childproof packaging or warning labeling, include a warning to keep it out of reach of children or others who may not be able to read or understand the label.

Expected Benefits

- Describe any possible benefits to the subject or others; indicate that benefits are not guaranteed.
- If statements regarding direct benefits of participation are included, they should be qualified as "possible" or that they "may" occur.
- Receipt of procedures and study items may be listed as benefits to the subject, but not in conjunction with their being "free" or at "reduced cost," as these statements imply a form of payment and thus should not be categorized as "benefits." The FDA Information Sheet "Guidance for Institutional Review Boards and Clinical Investigators" (1998) states, "Payment to research subjects for participation in studies is not considered a benefit, it is a recruitment incentive." Forms of payment may be referenced elsewhere, but not listed as a benefit of participation.

Alternatives

- Describe appropriate alternative treatments or procedures, if available.
- List several alternatives to participation if they exist; alternatives may include alternative drugs or therapy, palliative care, hospice care, etc.
- The consent form may say, "Your study doctor will discuss these with you."
- The section on alternatives should include a brief summary of the risks and benefits of the alternatives.

Costs

- Describe any known or anticipated costs to the subject.

- State who is responsible for the costs of the study-related items such as medications, procedures, device, visits, hospitalization and treatment for possible side effects.
- Indicate which procedures and items will be provided at no charge.
- If insurance will be billed for anything, include information about possible costs to the subject or their insurance. If anything is being billed to insurance, discuss what happens if the insurance does not pay.

Payment for Participation

- Describe the planned prorated payment for participation, if any.
- Any money or other incentive of monetary value should be listed in this section rather than the benefit section.
- If subjects are to be paid, state specifically for which visits subjects will receive payment and when such payment will be made; for example, “payment will be made at the end of each study visit,” “payment will be made at the end of the last study visit” or “payment will be made within one month after the last study visit.” Be as specific as possible to minimize confusion. Consider whether any aspects of the total amount or the proration plan may be coercive or unduly persuasive (WIRB does not routinely allow more than half the total payment to be assigned to the last visit). The Board may require revision of the payment or payment schedule.

HIPAA Authorization or Confidentiality:

Describe the limits on confidentiality of information in this section.

Prior to HIPAA, the section on confidentiality was often titled “Confidentiality,” but is now usually titled “Authorization To Use And Disclose Information For Research Purposes” and includes more information for the subject as outlined by the HIPAA regulations. Some sites (such as, those outside the U.S.) are not bound by the Privacy Rule and may opt to include only the confidentiality information required by the sponsor, 21 CFR 50 and 56 and/or 45 CFR 46. Some covered entities also opt to use a stand-alone authorization and exclude authorization language from their consent forms. Please indicate in your submission whether your site will need to have a HIPAA authorization section in the consent form (or whether you will use your own separate authorization form or are not a covered entity).

The authorization section presents the information required by the federal regulations regarding patient privacy rights. WIRB has developed standard template wording for the authorization section that identifies the parties who can use and disclose the PHI as well as the parties to whom the PHI may be disclosed. It also includes the following required information:

- A meaningful description of the PHI, which can be edited for each study.
- A description of each purpose for the use and disclosure.
- Information about the subject’s rights related to the authorization.
- Information about the expiration of the authorization (California, Illinois, Indiana, Washington and Wisconsin state laws require an expiration date).

- Instructions on how to revoke the authorization.
- A statement about what may happen if the authorization is not signed.
- A warning that once information has been released, it may no longer be covered by the Privacy Rule and may be released again without further authorization.

WIRB also ensures that the authorization section is modified as needed based upon local law; for example, authorizations for California sites are placed at the end of the consent form with their own signature lines and in 14 point font.

Compensation for Injury

- Outline the plans for compensation and/or medical treatment for research-related injury or illness, including who will be responsible for the costs.
- Explain what will happen if the subject gets injured. Explain how they will get treatment.
- Clearly state who will pay for treatment if the subject is harmed.
- Address what will happen if the subject's insurance is billed for the treatment, but refuses to pay.

WIRB requires that the clinical trials agreement (CTA) between the sponsor and the investigator (or investigator's institution) and the approved consent form do not conflict with each other regarding the compensation for injury. For example, if your CTA indicates that expenses for treatment of research related injury will be paid, the consent form must state this as well. Before submitting a request for review of a new research project to WIRB, please consider what method you will use to ensure that no subjects are enrolled unless the CTA and the WIRB-approved consent form are in agreement. WIRB accepts a variety of plans, for example:

- The research is minimal risk research for which compensation for injury language in the consent form is not necessary.
- There is no CTA for the research.
- The research is funded by a government agency (such as NIH) that does not offer compensation for injury.
- Upon receipt of WIRB approval documents, the investigator will check the CTA against the WIRB-approved consent form and resolve any conflicts via a request for a consent form modification to WIRB and/or a modified CTA before enrolling subjects.
- The sponsor or CRO may agree to review the WIRB-approved consent document and resolve any conflicts via a request for a consent form modification to WIRB and/or a modified CTA before authorizing enrollment at this site. **WIRB requires the name and signature of the sponsor or CRO representative, or written correspondence from the sponsor or CRO indicating who will take this responsibility.**
- The PI's hospital, university or medical center has a contract with WIRB for IRB services, and it has an established process for ensuring that the compensation for injury language in the CTA and in the consent form do not conflict.

- The PI's hospital, university or medical center has an established process for ensuring that the compensation for injury language in the CTA and in the consent form do not conflict. (Submitters must provide a description of the process.)
- Sites may also submit plans that differ from any of the plans outlined above.

Questions

Regulations require that a contact be provided for each of the following types of questions.

- Questions about the research.
- Questions about research-related injury or illness (the Board prefers a physician be listed as the contact for injury or illness) or study problems.
- Questions about their rights as research subjects (list WIRB and, if desired, a local or institution IRB contact).

Voluntary Participation/Withdrawal

- State that the subject's participation is voluntary and that a subject may withdraw at any time for any reason.
- State that the subject's decision not to participate or to withdraw from the research early will involve no penalty or loss of benefits to which the subject is otherwise entitled.
- State that the subject's participation may be ended by the study doctor or sponsor at any time for any reason without the subject's consent. Include any specific reasons cited in the protocol. General reasons may also be included. *Please note:* the FDA may stop the research, but will not stop the participation of an individual subject.
- Include information on any risks involved with withdrawing early; for example, the need to taper the study drug, obtain follow-up, be placed on standard medication, etc.
- Indicate that subjects who withdraw after the start of the study may be asked to return for a final visit and final study procedures, and must return the study drug.

Trial Registration

A new rule for informed consent was announced in the Federal Register: January 4, 2011 (Volume 76, Number 2) Page 256-270. The compliance date is March 7, 2012 for clinical trials that are initiated on or after the compliance date. As of that date, the following statement must be included in consent forms for "applicable clinical trials" as defined in FDAAA, 42 U.S.C. 282(j)(1)(A), section 402(j)(1)(A) of the PHS Act, and any relevant regulation.

"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."

Since this wording is only required for certain types of clinical trials, and only for those initiated on or after the compliance date, WIRB will not be automatically including the text in all existing and new consent forms. Individuals that wish to have the text in their

consent forms must request it. As the compliance date nears, our submission forms will be revised to collect the information needed to include the text in consent forms when appropriate.

Other

- Explain that significant new information that may be related to the subject's willingness to remain in the research will be provided to the subject.
- Identify the source of funding for the research.
- Disclose conflicts of interest (financial and otherwise).
- State that the subject will receive a copy of the signed and dated consent form.

Consent

This section changes to first person for emphasis; for example, "I voluntarily agree..." or "I have..."

- Include a statement of the subject's consent to participate, as well as an authorization to release medical (or research, as appropriate) records to the parties in the HIPAA authorization (or confidentiality) section, if applicable; and a statement that the subject is not giving up any legal rights by signing the consent form.
- Include a statement that the subject has read the information in the consent form or had it read to her/him (as appropriate); however, don't include statements which imply a level of comprehension, such as "I understand..."
- Include a statement that the subject's questions have been answered.

Signatures and Dates

- Include appropriate signature and date lines for consent as applicable.
- Include a space for the person conducting the informed consent discussion to sign (required by ICH).
- Provide a line for the investigator to sign if desired by researcher or sponsor; however, this is not a WIRB requirement.

In 2011, WIRB transitioned to a new format and approach to consent form review. We have discontinued the extensive kinds of formatting changes that we had been doing for many years, but have added some new features designed to change the emphasis from the text of the consent form over to the evaluation of the subject's understanding:

- A new cover sheet explaining concepts that are important to potential research subjects; and
- A section at the end of the consent form where the person obtaining consent attests that the subject understands key concepts (for more information see below).

New Attestation Section

At the end of consent forms, WIRB now includes what we call an attestation section. The goal of this addition is to highlight the importance of obtaining consent from

research subjects only after the subject appears to understand key concepts about the research. Such a confirmation by the person conducting the consent discussion will document that subjects have been sufficiently informed, that subjects' questions have been answered, and that the person discussing the research with the subject feels comfortable that consent is voluntarily given.

The attestation section highlights the importance of the explanation of the research by the research staff involved in the consenting process by requiring that research staff "attest" or confirm that the research was thoroughly explained to each subject and that the subject appears to have understood the information presented.

The text of the attestation is as follows:

I confirm that the research study was thoroughly explained to the subject. I reviewed the consent form with the subject and answered the subject's questions. The subject appeared to have understood the information and was able to answer the following questions correctly:

1. What is the purpose of this study?
2. If you decide to be in the study, what will you be asked to do?
3. What is the possible benefit of participating in this study?
4. What are the possible risks of participating in this study?
5. If you decide not to participate in this study, what options do you have?
6. Will participating in this study cost you anything? If so, what will you have to pay for?
7. Do you have to be in this study?
8. If you decide to be in the study, can you leave the study when you want to?

_____	_____
Printed Name of Person Conducting the Informed Consent Discussion	Position

_____	_____
Signature of Person Conducting the Informed Consent Discussion	Date

iii. Assent Forms

When an adult subject is not able to legally consent to participate in the research, a Legally Authorized Representative (LAR) provides the consent for the subject. For children, parents or guardians provide consent for minor children. However, WIRB usually also requires that both incapable adults and children assent to participation if possible.

Assent requires that subjects have at least a basic understanding of what might be asked of them, and what might happen. WIRB recommends providing a simple assent information sheet that explains the research to older children and adolescents.

Template Assent Information Sheets for Children and for Adolescents are included in [Appendix 2](#) and [Appendix 3](#), respectively.

iv. Improving the Readability of a Consent Form or Assent Information Sheet

- Decrease sentence length.
- Limit each sentence to one thought or topic. Avoid run-on sentences.
- Use simpler words; for example, select words with fewer syllables.
- Use common words. Remove technical jargon and medical terms.
- In discussing risks, use the symptoms the subject might experience rather than just the medical terms for the problem.
- Use short, simple paragraphs.
- Use correct basic grammar and form.

When evaluating a proposed word or phrase, consider whether a reader with no college education, no science courses, and little or no exposure to the medical professions would easily understand it. Most words or concepts can be explained in simple language.

When drafting a consent form, frequently ask “Does the reader need this information in order to make an informed decision?” Avoid including excess technical information that would only confuse or intimidate a reader.

v. Special Considerations for Gene Transfer (Gene Therapy) Consent Forms

The following is based on Appendix M (NIH Guidelines for Research Involving Recombinant DNA Molecules, April 2011).

Word Choice in Gene Transfer Consent Forms:

Use the term “gene *transfer*” instead of “gene *therapy*.” Replacing the term “therapy” with “transfer,” helps diminish any implication of effectiveness.

Use a neutral term such as “product”, “vaccine”, or “agent” instead of “drug” or “medicine” to refer to the investigational gene transfer product. The goal would be to help assure that subjects understand they are receiving recombinant DNA that may act differently than many conventional drugs.

Try to avoid the use of the terms “treatment,” “therapy” or “therapeutic” (because these words may imply effectiveness that has not been proven). The following are some suggested techniques for avoiding extensive use of the term “treatment”:

- Substitute the word “dosing,” or “group” for “treatment”:
 - “If you are assigned to ~~Treatment~~group A, ...”

- “At the end of the ~~treatment dosing~~ phase, ...”
 - “~~Treatment Dosing~~ in the study will stop ...”
- Delete the word “treatment”:
 - “Subjects may receive up to 12 cycles of ~~treatment~~if there is ...”
- Substitute the name of the agent:
 - “If you receive ~~treatment with ABC 123~~.”
 - “...effects of your ~~treatment~~ABC 123 and/or chemotherapy on ...”
- Address the increased possibility of **loss of confidentiality** because of media and public focus on the research.

Example: Research studies involving gene transfer have received a great deal of attention from the media. Although every effort will be made to protect your identity and that of your family, this attention may result in a greater risk than usual that information concerning your study participation will appear publicly without your consent.

Additional Consent Form Elements for Gene Transfer Consents:

- Inform subjects that an **autopsy will be requested if the subject dies**.

Example: In the event of your death, an autopsy will be requested. It would be done to provide additional information about the research. Your family and your “legally authorized representatives” have the right to refuse the autopsy even if you sign this consent form.

Additional Risk Information Considerations for Gene Transfer Consents:

Consider the special characteristics of the gene and vector involved and discuss common and/or unknown risks:

- Where will the agent end up in the body?
- How long will the agent be in the body?
- Can it be transmitted to others (*horizontal transmission* to those in contact with the subject, or *vertical transmission*, to offspring via egg or sperm)?
- Is there a risk of leukemia (with retroviral type gene transfer vectors) or other types of cancers or conditions (for example with angiogenesis-type agents)?
- Are there special precautions which must be taken because of these risks?

M. Certificates of Confidentiality

For some types of research, the Board may direct an investigator to obtain a certificate of confidentiality. A Certificate of Confidentiality helps researchers protect the privacy of human research participants enrolled in biomedical, behavioral, clinical and other forms of sensitive research. Certificates protect against compulsory legal demands, such as court orders and subpoenas, for identifying information or identifying characteristics of a research participant.

Investigators might consider applying for a certificate for research involving subject populations peculiarly prone to face legal or social harm by another’s discovery of their private, confidential, or protected information that can be exploited legally. For

example, research that involves subjects involved in illegal, stigmatized, or embarrassing behavior; subjects with illegal status (alien, child runaway, AWOL, etc.); and subjects with a stigmatized disease (HIV, alcoholism, mental illness, etc.) might have additional protection if a certificate of confidentiality has been obtained.

Frequently asked questions about certificates of confidentiality are available on the NIH web site here: <http://grants.nih.gov/grants/policy/coc/faqs.htm> and OHRP has posted guidance here: <http://www.hhs.gov/ohrp/policy/certconf.html>. Instructions for applying for a certificate are available here http://grants.nih.gov/grants/policy/coc/appl_extramural.htm, but NIH is not the only source for one, as several federal agencies issue certificates.

The Department of Justice requires that researchers prepare a "Privacy Certificate" (PC), which is similar to a Certificate of Confidentiality (CoC) for all research it regulates. This requirement applies to the Department's research arm, the National Institute of Justice (NIJ) and its other parts, such as BJA, OJJDP, OJP, etc. More information is available here: <http://www.ojp.gov/nij/funding/humansubjects/confidentiality.htm>.

N. Pregnant Partner Consent

Many protocols now include instructions for investigators to collect data on the outcome of pregnancies that occur in partners of male subjects. WIRB follows 45 CFR 46, which defines research as use of private, identifiable information for research purposes. Since investigators would be obtaining private information from the pregnant partner and infant, the partner would be a subject in the research. Investigators must obtain consent from the pregnant partner before any data collection can occur, and WIRB requires a consent form to be submitted for these subjects if a pregnancy occurs.

If plans for obtaining consent from the pregnant partner (or a request for a consent waiver) are not submitted at initial review, the Board may approve the research, but send a letter reminding the investigator and sponsor that pregnant partners and their infants cannot be followed-up until WIRB approves a consent plan for them. Please note that no action is necessary until such time as a pregnancy occurs.

A sample consent form template for obtaining consent from partners who become pregnant and for collecting data about their infants is available in [Appendix 4](#) of this document and on the Download Forms page of www.wirb.com. The template consent form cannot be used without WIRB approval.

6. Working With WIRB for IRB Review – An Overview

The Western Institutional Review Board is composed of several individual review panels. Each WIRB panel consists of nine standing members and designated alternates.