

Guidance for Industry

Investigator Responsibilities — Protecting the Rights, Safety, and Welfare of Study Subjects

**U.S. Department of Health and Human Services
Food and Drug Administration
Center for Drug Evaluation and Research (CDER)
Center for Biologics Evaluation and Research (CBER)
Center for Devices and Radiological Health (CDRH)**

**Procedural
October 2009**

Guidance for Industry Investigator Responsibilities — Protecting the Rights, Safety, and Welfare of Study Subjects

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Guidance for Industry¹

Investigator Responsibilities—Protecting the Rights, Safety, and Welfare of Study Subjects

This guidance represents the Food and Drug Administration's (FDA's) current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You can use an alternative approach if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance. If you cannot identify the appropriate FDA staff, call the appropriate number listed on the title page of this guidance.

I. INTRODUCTION

This guidance provides an overview of the responsibilities of a person who conducts a clinical investigation of a drug, biological product, or medical device (an *investigator* as defined in 21 CFR 312.3(b) and 21 CFR 812.3(i)). The goal of this guidance is to help investigators better meet their responsibilities with respect to protecting human subjects and ensuring the integrity of the data from clinical investigations. This guidance is intended to clarify for investigators and sponsors FDA's expectations concerning the investigator's responsibility (1) to supervise a clinical study in which some study tasks are delegated to employees or colleagues of the investigator or other third parties and (2) to protect the rights, safety, and welfare of study subjects.

FDA's guidance documents, including this guidance, do not establish legally enforceable responsibilities. Instead, guidances describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. The use of the word *should* in Agency guidances means that something is suggested or recommended, but not required.

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Although specific investigator responsibilities in drug and biologics clinical trials are not identical to the investigator responsibilities in medical device clinical trials, the general responsibilities are essentially the same. This guidance discusses the general investigator responsibilities that are applicable to clinical trials of drugs, biologics, and medical devices.

An investigator's responsibilities in conducting clinical investigations of **drugs or biologics** are provided in 21 CFR Part 312. Many of these responsibilities are included in the required investigator's signed statement, Form FDA-1572 (see Attachment A) (hereinafter referred to as 1572). Note that although the 1572 specifically incorporates most of the requirements directed at investigators in part 312, not all requirements are listed in the 1572. Investigators and sponsors should refer to 21 CFR Parts 11, 50, 54, 56, and 312 for a more comprehensive listing of FDA's requirements for the conduct of drug and biologics studies.²

An investigator's responsibilities in conducting clinical investigations of a **medical device** are provided in 21 CFR Part 812, including the requirement that there be a signed agreement between the investigator and sponsor (see 21 CFR 812.43(c)(4) and 812.100). The medical device regulations do not require use of a specific form for an investigator's statement; and there are additional requirements not listed above (see Attachment B). Investigators and sponsors should refer to 21 CFR Parts 11, 50, 54, 56, and 812 for a more comprehensive listing of FDA's requirements for the conduct of device studies.

Nothing in this guidance is intended to conflict with recommendations for investigators contained in the International Conference on Harmonisation (ICH) guidance for industry, *E6 Good Clinical Practice: Consolidated Guidance* (Good Clinical Practice Guidance).³

III. CLARIFICATION OF CERTAIN INVESTIGATOR RESPONSIBILITIES

This section of the guidance clarifies the investigator's responsibility to supervise the conduct of the clinical investigation and to protect the rights, safety, and welfare of participants in drug and medical device clinical trials.

A. Supervision of the Conduct of a Clinical Investigation

As stated above, investigators who conduct clinical investigations of drugs, including biological products, under 21 CFR Part 312, commit themselves to personally conduct or supervise the investigation. Investigators who conduct clinical investigations of medical devices, under 21 CFR Part 812, commit themselves to supervise all testing of the device involving human subjects. It is common practice for investigators to delegate certain study-related tasks to employees, colleagues, or other third parties (individuals or entities not under the direct supervision of the investigator). When tasks are delegated by an investigator, the investigator is responsible for providing adequate supervision of those to whom tasks are delegated. The investigator is accountable for regulatory viol

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In assessing the adequacy of supervision by an investigator, FDA focuses on four major areas: (1) whether individuals who were delegated tasks were qualified to perform such tasks, (2) whether study staff received adequate training on how to conduct the delegated tasks and were provided with an adequate understanding of the study, (3) whether there was adequate supervision and involvement in the ongoing conduct of the study, and (4) whether there was adequate supervision or oversight of any third parties involved in the conduct of a study to the extent such supervision or oversight was reasonably possible.

1. What Is Appropriate Delegation of Study-Related Tasks?

The investigator should ensure that any individual to whom a task is delegated is qualified by education, training, and experience (and state licensure where relevant) to perform the delegated task. Appropriate delegation is primarily an issue for tasks considered to be clinical or medical in nature, such as evaluating study subjects to assess clinical response to an investigational therapy (e.g., global assessment scales, vital signs) or providing medical care to subjects during the course of the study. Most clinical/medical tasks require formal medical training and may also have licensing or certification requirements. Licensing requirements may vary by jurisdiction (e.g., states, countries). Investigators should take such qualifications/licensing requirements into account when considering delegation of specific tasks. In all cases, a qualified physician (or dentist) should be responsible for all trial-related medical (or dental) decisions and care.⁴

During inspections of investigation sites, FDA has identified instances in which study tasks have been delegated to individuals lacking appropriate qualifications. Examples of tasks that have been inappropriately delegated include:

- x Screening evaluations, including obtaining medical histories and assessment of inclusion/exclusion criteria
- x Physical examinations
- x Evaluation of adverse events
- x Assessments of primary study endpoints
- x Obtaining informed consent

The investigator is responsible for conducting studies in accordance with the protocol (see 21 CFR 312.60, Form FDA-1572, 21 CFR 812.43 and 812.100). In some cases a protocol may specify the qualifications of the individuals who are to perform certain protocol-required tasks (e.g., physician, registered nurse), in which case the protocol must be followed even if state law permits individuals with different qualifications to perform the task (see 21 CFR 312.23(a)(6) and 312.40(a)(1)). For example, if the state (who,csic10 BDC D/P AMCIDoAM6..y st(on)Tjd m)8(e)-1(may1 T e d i 2 . 7 s e e r s T r e

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and experienced. A plan might include the following elements, to the extent they apply to a particular trial:

- x Routine meetings with staff to review trial progress, adverse events, and update staff on any changes to the protocol or other procedures
- x Routine meetings with the sponsor's monitors
- x A procedure for the timely correction and documentation of problems identified by study personnel, outside monitors or auditors, or other parties involved in the conduct of a study
- x A procedure for documenting or reviewing the performance of delegated tasks in a satisfactory and timely manner (e.g., observation of the performance of selected assessments or independent verification by repeating selected assessments)
- x A procedure for ensuring that the consent process is being conducted in accordance with 21 CFR Part 50 and that study subjects understand the nature of their participation and the risks
- x A procedure for ensuring that source data are accurate, contemporaneous, and original
- x A procedure for ensuring that information in source documents is accurately captured on the case report forms (CRFs)
- x

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and cannot be made satisfactory by the investigator, the investigator should document the observed deficiencies in writing to the staff member's supervisor(s) and inform the sponsor. Depending on the severity of the deficiencies, the clinical trial may need to be voluntarily suspended until personnel can be replaced.

b. Parties Other than Study Staff

There are often critical aspects of a study performed by parties not involved directly in patient care or contact and not under the direct control of the clinical investigator. For example, clinical chemistry testing, radiologic assessments, and electrocardiograms are commonly done by a central independent facility retained by the sponsor. Under these arrangements, the central facility usually provides the test results directly to the sponsor and to the investigator. Because the activities of these parties are critical to the outcome of the study and because the sponsor retains the services of the facility, the sponsor is responsible for ensuring that these parties are competent to fulfill and are fulfilling their responsibilities to the study.

Less frequently, a study may require that investigators arrange to obtain information critical to the study that cannot be obtained at the investigator's site. For example, if the study protocol requires testing with special equipment or expertise not available at the investigator's site, the investigator might make arrangements for an outside facility to perform the test. In this case, the results are usually provided directly to the investigator, who then submits the information to the sponsor. If the investigator retains the services of a facility to perform study assessments, the investigator should take steps to ensure that the facility is adequate (e.g., has the required certification or licenses). The investigator may also institute procedures to ensure the integrity of data and records obtained from the facility providing the information (e.g., a process to ensure that records identified as coming from the facility are authentic and accurate). Procedures are particularly important when assessments are crucial to the evaluation of the efficacy or safety of an intervention or to the decision to include or exclude subjects who would be exposed to unreasonable risk.

Investigators should carefully review the reports from these external sources for results that are inconsistent with clinical presentation. To the extent feasible, and considering the specifics of study design, investigators should evaluate whether results appear reasonable, individually, and in aggregate, and they should document the evaluation. If investigators detect possible errors or suspect that results from a central laboratory or testing facility might be questionable, the investigator should contact the sponsor immediately.

c. ~~Special Considerations for Medical Device Studies~~ Special Considerations for Medical Device Studies

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another state or on prolonged travel). Study subjects should be clearly educated on the possible need for such contact and on precisely how to obtain it, generally by providing pertinent phone numbers, e-mail addresses, and other contact information, in writing. Prior to undertaking the conduct of a study, prospective investigators should consider whether they can be available to the extent needed given the nature of the trial.

During any period of unavailability, the investigator should delegate responsibility for medical care of study subjects to a specific qualified physician who will be readily available to subjects during that time (in the manner a physician would delegate responsibility for care in clinical practice). If the investigator is a non-physician, the investigator should make adequate provision for any necessary medical care that the investigator is not qualified to provide.

3. Protocol Violations that Present Unreasonable Risks

There are occasions when a failure to comply with the protocol may be considered a failure to protect the rights, safety, and welfare of subjects because the non-compliance exposes subjects to unreasonable risks. For example, failure to adhere to inclusion/exclusion criteria that are specifically intended to exclude subjects for whom the study drug or device poses unreasonable

ATTACHMENT A: COPY OF FORM 1572

DEPARTMENT OF HEALTH AND HUMAN SERVICES
FOOD AND DRUG ADMINISTRATION

Form Approved: OMB No. 0910-0014.
Expiration Date: May 31, 2009.
See OMB Statement on Reverse.

STATEMENT OF INVESTIGATOR
(TITLE 21, CODE OF FEDERAL REGULATIONS (CFR) PART 312)
(See instructions on reverse side.)

NOTE: No investigator may participate in an investigation until he/she provides the sponsor with a completed, signed Statement of Investigator, Form FDA 1572 (21 CFR 312.53(c)).

1. NAME AND ADDRESS OF INVESTIGATOR

2. EDUCATION, TRAINING, AND EXPERIENCE THAT QUALIFIES THE INVESTIGATOR AS AN EXPERT IN THE CLINICAL INVESTIGATION OF THE DRUG FOR THE USE UNDER INVESTIGATION. ONE OF THE FOLLOWING IS ATTACHED.

CURRICULUM VITAE

OTHER STATEMENT OF QUALIFICATIONS

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8. ATTACH THE FOLLOWING CLINICAL PROTOCOL INFORMATION:

FOR PHASE 1 INVESTIGATIONS, A GENERAL OUTLINE OF THE PLANNED INVESTIGATION INCLUDING THE ESTIMATED DURATION OF THE STUDY AND THE MAXIMUM NUMBER OF SUBJECTS THAT WILL BE INVOLVED.

FOR PHASE 2 OR 3 INVESTIGATIONS, AN OUTLINE OF THE STUDY PROTOCOL INCLUDING AN APPROXIMATION OF THE NUMBER OF SUBJECTS TO BE TREATED WITH THE DRUG AND THE NUMBER TO BE EMPLOYED AS CONTROLS, IF ANY; THE CLINICAL USES TO BE INVESTIGATED; CHARACTERISTICS OF SUBJECTS BY AGE, SEX, AND CONDITION; THE KIND OF CLINICAL OBSERVATIONS AND LABORATORY TESTS TO BE CONDUCTED; THE ESTIMATED DURATION OF THE STUDY; AND COPIES OR A DESCRIPTION OF CASE REPORT FORMS TO BE USED.

9. COMMITMENTS:

I agree to conduct the study(ies) in accordance with the relevant, current protocol(s) and will only make changes in a protocol after notifying

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Food and Drug Administration
Center for Biologics Evaluation and Research (HFM-99)
1401 Rockville Pike
Rockville, MD 20852-1448

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3. Supervising the use of the investigational device. An investigator shall permit an investigational device to be used only with subjects under the investigator's supervision. An investigator shall not supply an investigational device to any person not authorized

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The IDE regulations prohibit the promotion and commercialization of a device that has not been first cleared or approved for marketing by FDA. This prohibition is applicable to sponsors and investigators (or any person acting on behalf of a sponsor or investigator) and encompasses the following activities:

1. Promotion or test marketing of the investigational device
2. Charging subjects or investigators for the device a price larger than is necessary to recover the costs of manufacture, research, development, and handling
3. Prolonging an investigation beyond the point needed to collect data required to determine whether the device is safe and effective
4. Representing that the device is safe or effective for the purposes for which it is being investigated