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Version #: 01	**Issued by:** Institutional Official	**Authorized by:** Provider Services Legal

Title	Informed Consent for Human Subjects Research
Scope	North Memorial Health, Maple Grove Hospital, Blaze Health
Responsibility	North Memorial Health Research Office

PURPOSE

This policy describes the general requirements for obtaining and documenting informed consent for human subjects research.

POLICY

1) Researchers may only involve human participants in research when the legally effective informed consent has been obtained from the participant or the participant's legally authorized representative (LAR) (45 CFR 46.116, 21 CFR 50.20).

2) Exceptions to this policy include:

   a) Exempt research, for which investigators should include an information sheet for participants in the application submitted to the North Memorial Health Research Office; and

   b) In circumstances where the reviewing IRB has granted a waiver or modification of the informed consent requirement.

3) Researchers shall seek prospective informed consent from a participant or LAR after the individual has sufficient opportunity to discuss and consider their participation. Researchers must also minimize the possibility of coercion or undue influence.

   a) Researchers must describe in their protocol how the informed consent process will be conducted, the setting in which it will occur, how long individuals have to consider participation, and methods to prevent undue influence.

   b) Researchers should consider informed consent as a process, not just a form, by which the research study is thoroughly explained to the potential participant. The requirement to obtain informed consent is an ethical obligation. Documentation of informed consent is accomplished through the use of a signed consent form.

   c) If the research involves children and the investigator has not requested or the IRB has not granted a waiver of alteration of informed consent, permission from a parent (either one or two) and assent of children aged 7 or older must be obtained. Generally, the assent process for children ages 7-11 involves oral assent and for children ages 12-17 includes a written assent. The reviewing IRB will

determine whether the assent process described in the protocol is sufficient, based on the age, maturity and psychological state of the children to be enrolled. See the North Memorial Health Research Office Policy on research involving vulnerable populations for additional information.

d) Researchers should be aware that the setting in which consent is sought may introduce a feeling of undue influence. For example, patients whose physician asks them to participate in research may feel that their clinical care may change if they decline to participate in the research. Prevention of these sorts of pressures should be addressed in the research design as individuals should have the right to refuse participation without penalty.

4) The information that is given to the prospective participant or LAR (whether orally or in writing) shall be in language understandable to the participant or LAR.

5) The prospective participant or LAR must be provided with the information that any reasonable person would want to have in order to make an informed decision about whether to participate.

6) The informed consent form must present information in sufficient detail relating to the research and must be organized and presented in a way that does not merely provide lists of isolated facts, but rather facilitates understanding of the reasons why one might or might not want to participate.

7) The informed consent form cannot include any exculpatory language through which the participant or LAR is made to waive or appear to waive any legal rights, or that releases or appears to release researchers, the sponsor, the institution, or its agents from liability for negligence.

a) In all cases, consent forms must be consistent with state laws and federal regulations. The informed consent requirements stated in this policy are not intended to preempt any applicable federal, state, or local laws that require additional information be disclosed for informed consent to be legally effective.

8) Prospective participants' informed consent may not be required for screening, recruiting, or determining eligibility of potential participants when researchers obtain information from the participants through oral or written communication (i.e., interaction with potential participants) or access identifiable records or stored biospecimens.

IRB Submission and Review

1) The informed consent form must be provided to the reviewing IRB for review and approval, when appropriate. The IRB reviews the information and ensures that all requirements consistent with this policy are met.

a) North Memorial Health investigators conducting industry-sponsored research may utilize the sponsor-provided informed consent template, modified as appropriate to include language required by North Memorial Health, to document informed consent of North Memorial Health participants.

Informed Consent Process

1) Informed consent is an ongoing process of information exchange that provides the prospective participant or participant's LAR with adequate information pertaining to the research study; sufficient opportunity to consider aspects of the research, including the risks and benefits, and whether to participate; and the opportunity for the participant to ask questions and receive answers to those questions, thus minimizing the possibility of coercion or undue influence.

a) To ensure a complete and compliant consenting process, it is important that the person consenting

participants be knowledgeable about the research and if relevant, the condition being studied.

2) The informed consent process is often conducted via a conversation between the researcher and the prospective participant or participant's LAR. The informed consent form provides a guide for the informed consent conversation and provides the participant or LAR with information that can be referenced later. If the informed consent conversation cannot be conducted face-to-face, the informed consent process may be conducted over the telephone or via other electronic means. In this situation, it is recommended that the participant be provided with a copy of the informed consent form in advance.

3) Participants who can understand and comprehend spoken English but are unable to read the informed consent form for any reason (e.g., illiteracy, blindness or diminished vision, dyslexia) may be enrolled in a study; however, special care must be taken to ensure such individuals are able to understand the concepts of the study and evaluate the risks and benefits of being in the study when it is explained orally.

   a) The study team must present the information orally and document the circumstances.

   b) A witness must observe the entire consent process and sign the consent form.

Documentation of Informed Consent

1) Informed consent is documented by the use of an approved, written consent form described in 21 CFR 50.25 and 45 CFR 46.116(a), that is signed and dated by the prospective participant or LAR at the time of consent.

2) Unless the IRB grants a waiver of documentation of informed consent, informed consent must be documented as follows:

   a) Participants who are willing to participate in research must sign a copy of the IRB-approved informed consent form prior to participating in research procedures.

      i) Signature may be provided via a physical “wet” signature, a digital copy of a wet signature, verified electronic signature via encrypted digital signature, or electronic signature pad.

      ii) If the consent conversation is not conducted face-to-face, the participant may fax, email, or mail a signed copy of the informed consent form to the researcher when this process is approved by the IRB.

      iii) Unless the IRB approves otherwise, the participant must receive a copy of the signed informed consent form prior to beginning research procedures.

      iv) If participants are physically unable to provide a signature, they can “make their mark” on the informed consent form and the researchers must document the circumstances. If participants are unable to make a mark, a witness must observe the documentation process and sign the consent form as the witness to the consent process.

   b) For research involving greater than minimal risk, the person conducting the consent discussion must also sign and date the informed consent form as the "person obtaining consent." The signature of the investigator is not required unless they are the person conducting the consent discussion.

   c) Research personnel shall give either the participant or LAR adequate opportunity to read the informed consent form before it is signed, or alternatively this form may be read to the participant or

LAR.

Elements of Informed Consent

1) For research that is subject to the Common Rule (45 CFR 46), informed consent forms must begin with a concise and focused presentation of the key information that is most likely to assist a prospective participant or LAR in understanding the reasons why one might or might not want to participate in the research.

2) Unless altered or waived by the IRB, the following information shall be provided to each prospective participant or LAR who is considering participation in a research study. The IRB may require that additional information be given to participants when, in the IRB's judgment, the information would meaningfully add to the protection of the rights and welfare of participants.

    a) A statement that the study involves research, an explanation of the purposes of the research, the expected duration of participation, a description of the procedures to be followed, and identification of any procedures which are experimental.

    b) A description of any reasonably foreseeable risks or discomforts to the research participant.

    c) A description of any benefits to the research participant or to others that may reasonably be expected from the research.

    d) A disclosure of appropriate alternative procedures or courses of treatment, if any, which might be advantageous to the research participant.

    e) A statement describing the extent to which, if any, confidentiality of records identifying the research participant will be maintained and for FDA regulated research, notes the possibility that the FDA may copy and inspect the records.

    f) For research involving more than minimal risk, an explanation as to whether any compensation is provided and an explanation as to whether any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained.

    g) An explanation of whom to contact for answers to pertinent questions about the research and participants' rights, and whom to contact in the event of a research-related injury to the research participant.

    h) A statement that participation is voluntary, that refusal to participate will involve no penalty or loss of benefits to which the participant is otherwise entitled, and that the participant may discontinue participation at any time without penalty or loss of benefits to which they are otherwise entitled.

    i) One of the following statements about any research that involves the collection of identifiable private information or identifiable biospecimens:

        i) A statement that identifiers might be removed from the identifiable private information or identifiable biospecimens and that, after such removal, the information or biospecimens could be used for future research studies or distributed to another researcher for future research studies without additional informed consent from the participant or LAR, if this might be a possibility; or

        ii) A statement that the participant's information or biospecimens collected as part of the research,

even if identifiers are removed, will not be used or distributed for future research studies.

j) For research involving FDA regulated test articles, the informed consent must include:

i) A description of the test article (e.g., investigational drug or device) being studied

ii) A statement that the test article is investigational, meaning it has not been approved by the FDA

3) The following additional elements shall also be provided to each participant or LAR, when appropriate:

a) A statement that the particular treatment or procedure may involve risks to the research participant (or to the embryo or fetus if the research participant is or may become pregnant), which are currently unforeseeable (this is usually limited to biomedical research involving clinical treatment or procedures).

b) Anticipated circumstances under which participation may be terminated by the researchers without regard to the participant's consent (e.g., if a participant fails to comply with research procedures).

c) Any additional costs to the participant that may result from research participation (this is usually limited to biomedical research involving billing participants or participants' health insurance for services provided as part of research).

d) The consequences of a research participant's decision to withdraw from the research and procedures for orderly termination of participation by the research participant.

e) A statement that significant new findings developed during the course of the research, which may relate to the participant's willingness to continue participation, will be provided to the participant.

f) The approximate number of research participants involved in the study.

g) A statement that the participant's biospecimens (even if identifiers are removed) may be used for commercial profit and whether the participant will or will not share in this commercial profit.

h) A statement regarding whether clinically relevant research results, including individual research results, will be disclosed to participants, and if so, under what conditions (this is usually limited to biomedical research).

i) For research involving biospecimens, whether the research will (if known) or might include whole genome sequencing (i.e., sequencing of human germline or somatic specimen with the intent to generate the genome or exome sequence of that specimen; this is usually limited to biomedical research).

4) The following additional information must be provided in consent forms when applicable:

a) When seeking informed consent for certain clinical trials, as defined in 42 U.S.C. 282(j)(1)(A), the following statement notifying the participant that clinical trial information has been or will be submitted for inclusion in the clinical trial registry databank under paragraph (j) of section 402 of the Public Health Service Act: "A description of this clinical trial will be available on ClinicalTrials.gov, as required by U.S. law. This website will not include information that can identify you. At most, the website will include a summary of the results. You can search this website at any time."

b) If research personnel have a conflict of interest related to a research study, a statement regarding the conflict of interest as determined by the Conflict of Interest Management Plan.

c) For studies where a Certificate of Confidentiality has been granted, including any study funded by the National Institutes for Health (NIH) that collects or uses identifiable, sensitive information, a statement regarding Certificate of Confidentiality protections.

d) If the research involves genetic information, a statement describing the protections provided by the Genetic Information Nondiscrimination Act (GINA) of 2008.

Waiver of Documentation of Informed Consent

1) The IRB may waive the requirement for researchers to obtain a signed informed consent form for some or all participants if the IRB determines at least one of the criteria set forth in 45 CFR 46.117(c) is met.

2) In cases in which the documentation requirement is waived, the consent process must include all elements listed in the Elements of Informed Consent section of this policy. The IRB may require researchers to provide participants or LARs with a written statement regarding the research.

Waiver or Alteration of Consent

1) The IRB of record for the study may waive the requirement to obtain informed consent in its entirety, or approve a consent procedure that omits or alters some of the elements of informed consent if the IRB determines all of the criteria set forth in 45 CFR 46.116(f) are met:

2) The FDA has adopted the same criteria for waiving or altering informed consent for FDA regulated research (see FDA Guidance "IRB Waiver or Alteration of Informed Consent for Clinical Investigations Involving No More than Minimal Risk to Human Participants: Guidance for Sponsors, Investigators, and Institutional Review Boards" (July 2017).

Informed Consent Procedures for Participants Who Cannot Read English

1) The consent conversation and informed consent form must be in a language understandable to the participant (e.g., in the participant's first language or a language in which the participant is fluent).

2) If researchers plan to enroll non-English-reading individuals, plans for language-appropriate consent procedures must be described in the IRB application. If a non-English informed consent form is provided for IRB review and approval, investigators must follow the reviewing IRB's policy regarding whether a certificate of translation is required.

Informed Consent Procedures involving Surrogate Consent

1) Federal regulations require that consent be sought from a research participant or LAR and defer to "applicable law" to define who is legally authorized (45 CFR 46.116 and 21 CFR 50.20).

In accordance with federal regulations, the following guidelines must be taken into account when considering whether to enroll participants via surrogate consent methods:

a) The IRB must specifically approve the use of surrogates in a research study.

b) The submission must include a process for formal evaluation of the prospective participant's ability to participate in the consent process, unless it is clear that the prospective participant cannot participate in the consent process (e.g., an unresponsive individual).

c) If surrogate consent will be sought for a responsive participant, the participant must be told of the researcher's plan to consult a surrogate.

d) If a participant in any way objects to or resists study participation or the use of surrogate consent, that participant may not be included in the study.

Informed Consent Procedures with Special Populations

1) Certain populations of participants require additional protections regarding their consent to participate in research. Please see applicable North Memorial Health Research Office policies and reviewing IRB policies for additional consent requirements when involving these populations in research (e.g., research involving individuals with diminished mental capacity).

Revisions to the Informed Consent Form

1) Revisions to the informed consent form must be reviewed and approved by the IRB prior to implementation.

2) Newly enrolled participants must sign the most recently approved version of the informed consent form, unless the IRB approved the study with waiver of signed consent. While a single copy of the previously approved informed consent must be maintained in the research files, all additional copies should be discarded to prevent inadvertent use by researchers.

3) When submitting a revised informed consent form for IRB review and approval, the researchers must notify the IRB whether previously enrolled participants will be notified of the new information and, if so, the timing and mechanism of the notification (e.g., email or other written correspondence, telephone). The IRB will consider the researchers' plan for notification and ensure its appropriateness.

4) If the researchers are aware of new or increased risks that are not reflected in the IRB-approved informed consent form, they must not enroll new participants until the revised informed consent form incorporating these risks is reviewed and approved by the IRB.

5) If the IRB agrees that previously enrolled participants must be notified of new or different information or re-consented using a new informed consent form, the notification or re-consent process should be documented. Any previously signed consent forms must be retained in the research records and not discarded. Please refer to the North Memorial Health policy on record retention for more information.

Participants Withdrawn from Research

1) If a participant wishes to discontinue participation in the research, data collected on the participant to the point of the participant's withdrawal from a study typically remains part of the study records.
    a. The Office of Human Research Protections (OHRP) provides guidance on this topic, which states that investigators can retain and analyze already collected data related to participants who choose to withdraw from the research or whose participation is terminated by the investigator provided that all analyses falls within the scope of the research approved by the IRB.
    b. The Food and Drug Administration (FDA) also has guidance on this topic, which states data collected on participants up to the time of withdrawal must remain in the study database for a study to be scientifically valid.

2) Investigators are encouraged to outline in the informed consent form what may happen with the data provided by participants in situations where they may withdraw their participation or where their participation is withdrawn by investigators.

REFERENCES
45 CFR 46
21 CFR 50

FDA Guidance for Sponsors, Investigators and Institutional Review Boards, *IRB Waiver or Alteration of Informed Consent for Clinical Investigations Involving No More Than Minimal Risk to Human Subjects*

FDA Guidance for Sponsors, Clinical Investigators and IRBs, *Data Retention When Subjects Withdraw from FDA-Regulated Clinical Trials*

OHRP Guidance, *Withdrawal of Subjects from Research*

The Genetic Information Nondiscrimination Act of 2008

TABLE OF REVISIONS

Date	Description of Changes