

## **7.7 Continuing Review**

The IRB will conduct a continuing review of ongoing research at intervals that are appropriate to the level of risk for each research plan, but not less than once per year. The date by which continuing review must occur will be recorded in the IRB minutes or other IRB records and communicated in writing to the investigator. Continuing review must occur as long as the research remains active including when the remaining research activities are limited to the analysis of private identifiable information.

### **7.7.1 Continuing Review Process**

As a courtesy to investigators, the IRB staff will send out renewal notices to investigators approximately two months and again one month in advance of the expiration date; however, it is the investigator's responsibility to ensure that the continuing review of ongoing research is approved prior to the expiration date. By federal regulation, no extension to that date can be granted.

Investigators must submit the following for continuing review:

- The current protocol and IRB application
- The current consent document
- The most recent report(s) from the DSMB or DMC (if applicable);
- The most recent multi-site progress report (if applicable);
- Copy of any audits performed during the review period and
- The continuing review status report.

IRB members can request the study file or any additional materials from the IRB staff prior to the meeting or during the expedited review process.

### **7.7.2 Approval Considerations**

In order to re-approve research at the time of continuing review, the IRB must determine that the regulatory criteria for approval continue to be satisfied. Because the research was previously found to satisfy the criteria for approval, the IRB focuses its considerations at the time of continuing review on whether any new information is available that would affect the IRB's prior determination that the criteria for approval are satisfied. The IRB pays particular attention to four aspects of the research:

1. Risk assessment and monitoring;
2. Adequacy of the informed consent process;
3. Local investigator and organizational issues; and
4. Research progress.

### **7.7.3 Convened Board Review**

In conducting continuing review of research not eligible for expedited review, all IRB members are provided with access to all of the materials listed in Section 7.7.2 and are responsible for reviewing the protocol, the current consent documents or materials, the status report, and, if applicable, the data and safety monitoring report, multi-site study progress reports. The primary and secondary reviewers are responsible for reviewing the complete materials submitted for continuing review and is given access to the complete IRB file and relevant IRB meeting minutes. At the meeting, the Primary and Secondary Reviewers assist the Chair in leading the IRB through the completion of the regulatory criteria for approval in the IRB reviewer or certification checklist.

Review of currently approved or newly proposed consent documents must occur during the scheduled continuing review of research by the IRB, but consent documents should be reviewed whenever new information becomes available that may require modification of information in the consent document.

### **7.7.4 Expedited Review**

In conducting continuing review under expedited procedures, the reviewers receive all of the previously noted materials. The reviewer(s) complete the IRB reviewer or certification checklist to determine whether the research meets the criteria allowing continuing review using the expedited procedure, and if so, whether the research continues to meet the regulatory criteria for approval.

Generally, if research did not qualify for expedited review at the time of initial review, it does not qualify for expedited review at the time of continuing review, except in limited circumstances described by expedited review categories (8) and (9) (see Expedited Review Categories in Section 7.2.1). It is also possible that research activities that previously qualified for expedited review, have changed or will change, such that expedited IRB review would no longer be permitted for continuing review.

### **7.7.5 Possible IRB Actions after Continuing Review**

As with Initial Review, at the time of Continuing Review, the Convened IRB or IRB Member(s) conducting expedited review may take any of the following actions (see Section 7.6 for a detailed description of these actions):

1. Approved
2. Approvable with Conditions
3. Deferred

Additionally, the convened IRB may vote to disapprove the study. If an IRB member conducting expedited review believes that the study should be disapproved, it will be referred to the convened board for review. If the IRB has significant concerns, the IRB may vote to suspend or

terminate the research (See Section 8 for a detailed discussion of suspensions and terminations).

If a research study receives Approvable with Conditions at the time of the Continuing Review, the IRB will specify whether any conditions need to be satisfied before an investigator can continue particular research activities related to those conditions or requirements that must be adhered to until the conditions of approval have been satisfied. For example, if at the time of continuing review, the IRB requires the investigator to change the research protocol to include a specific new procedure for screening prospective subjects, the IRB could approve the research with the following condition: research activities involving currently enrolled subjects may continue, but no new subjects may be enrolled until a designated IRB member reviews a revised protocol and verifies that the protocol includes the new screening procedure. Additionally, the IRB may specify a time period, such as 1, 2, or 3 months, for the condition/s to be satisfied as long as the activity with conditions is not begun/restarted until approval is granted.

#### **7.7.6 Lapses in Continuing Review**

The regulations permit no grace period or approval extension after approval expiration. Research that continues after the approval period has expired is research conducted without IRB approval. If re-approval does not occur within the time set by the IRB, all research activities must stop, including recruitment (media advertisements must be withdrawn), enrollment, consent, interventions, interactions, and data collection. **This will occur even if the investigator has provided the continuing information before the expiration date. Therefore, investigators must submit their continuing review materials enough in advance of expiration to allow sufficient time for IRB review before the expiration date.**

The lapse of IRB approval due to a failure to complete continuing review and obtain re-approval prior to expiration of the prior approval does not ordinarily constitute a suspension or termination of IRB approval, for federal reporting purposes; however, the failure to meet continuing review obligations may be grounds for suspension or termination of the research. If the IRB notes a pattern of non-compliance with the requirements for continuing review (e.g., an investigator repeatedly or deliberately neglects to submit materials for continuing review in a timely fashion or the IRB itself is not meeting the continuing review dates), the IRB should determine the reasons for the non-compliance and take appropriate corrective actions. The IRB must report to FDA/OHRP any instance of serious or continuing non-compliance with FDA regulations or IRB requirements or determinations.

When the IRB approves research with conditions at the time of continuing review before the expiration date of the preceding IRB approval period, IRB approval does not lapse if the investigator needs additional time – beyond the date on which the preceding IRB approval would have expired – to satisfy some or all of the IRB’s conditions. However, the investigator and the IRB should make every effort to resolve any conditions and finalize approval in as timely a manner as possible.

The IRB Office is responsible for notifying the investigator of the expiration of approval and that all research activities must stop.

However, the IRB recognizes that, while enrollment of new subjects cannot occur after the expiration of IRB approval, temporarily continuing participation of already enrolled subjects may be necessary or appropriate, for example, when the research interventions hold out the prospect of direct benefit to the subjects, or when withholding those interventions or safety monitoring procedures, would place subjects at increased risk. In these instances, the investigator should, at the earliest opportunity, contact the IRB office and submit a request to continue those research activities that are in the best interests of subjects. Such a request should specifically list the research activities that should continue, and provide justification, and indicate whether the request applies to all or only certain subjects. The IRB Chair or designee will review the request and provide a determination regarding what activities, if any, may continue during the lapse. Such a determination may include a time limit or other conditions or restrictions. If the IRB decides that already enrolled subjects should continue to receive the interventions that were being administered to subjects under the research project, data collection (especially safety information) should also continue for such subjects.

When there is insufficient time to obtain an IRB determination (e.g., the study regimen includes daily administration of an investigational agent), the investigator may make an initial determination, in consultation with the subjects' treating physician, if appropriate. In such cases, the investigator must, as soon as possible, contact the IRB office and submit a request for confirmation that the IRB agrees with the determination. The IRB Chair or designee will review the request and provide a determination. In the event that the IRB does not agree with the investigator's determination, or only agrees in part (e.g., agrees that some but not all of the activities are in the best interests of subjects), the IRB will notify the investigator who must then comply with the IRB's requirements or request a re-review of the determination by providing additional justification or information that the IRB may not have considered.