CHAPTER 4: CRITERIA FOR IRB APPROVAL OF PROTOCOLS
I. General Guidelines - Federal & State Regulations
A. Basic Approval Requirements

In order to grant approval to a research study, the IRB must find and document that the following criteria are met, per 45 CFR 46.116(a)(b), at the time of initial approval and sustained through continuing review and requests for an amendment:

- risks to participants are minimized: (i) by using procedures which are consistent with sound research design and which do not unnecessarily expose participants to risk, and (ii) whenever appropriate, by using procedures already being performed on the participants for diagnostic or treatment purposes;
- risks to participants are reasonable in relation to anticipated benefits, if any, to participants, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies participants would receive even if not participating in the research). The IRB should not consider possible long-range effects of applying knowledge gained in the research (for example, the possible effects of the research on public policy) as among those research risks that fall within the purview of its responsibility;
- selection of participants is equitable. In making this assessment the IRB should take into account the purposes of the research and the setting in which the research will be conducted and should be particularly cognizant of the special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons. For example vulnerable populations in proposed studies selected as populations of convenience is not acceptable;
- informed consent will be sought from each prospective participant or the participant's legally authorized representative, in accordance with, and to the extent required by regulations (or a request to waive or alter the elements of consent must be approved);
- informed consent will be appropriately documented, in accordance with, and to the extent required by regulations (refer to informed consent section);
- when appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of participants (refer to data safety monitoring section); and
- when appropriate, there are adequate provisions to protect the privacy of participants and to maintain the confidentiality of data (this criterion applies to all studies).
- when some or all of the participants are likely to be vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these participants.
- when biomedical research procedures are included in a research study, the IRB requires that information be provided by the PI that documents the specific
training/credentials for each individual identified as key personnel that qualifies them to perform each procedure.

B. Other Approvals
Research approved by the IRB may be subject to further appropriate review and approval or disapproval by HU officials. However, those officials may not approve the research if it has not been approved by the IRB [45 CFR 46.112].

II. Informed Consent
A. Elements of Informed Consent
The informed consent process is an interaction between the prospective participant and the PI, co-investigator and/or designated qualified personnel, during which a research study is explained to the participant. The purpose is to ensure that the participant understands the study (purpose, risks, benefits) in which s/he may enroll. The process must allow the participant sufficient time to ask questions and to consider whether to participate. The process must also be conducted in a setting that affords sufficient privacy to the potential participant. The informed consent process is most often documented by use of an IRB approved and validated informed consent form.

At the outset of the consent process, the PI or designated individual authorized to obtain consent should ask the participant if any special provisions are required by them for the consent process. For example, hearing impaired individuals may want a sign language interpreter present or individuals with dyslexia may prefer to have the document read to them.

Consent must be obtained prior to any involvement of the participant in a study. All consent forms must include instructions for the participants as to whom to contact regarding research related questions, research related injuries (if applicable) and how to contact the IRB regarding their rights as a research participant. In general, participants must consent to any screening procedures as well as to participation in the study. The PI may choose to use two different forms or to use one form encompassing both elements. Participants are considered enrolled at the time of signing the consent form. Participants must be informed that they may be withdrawn if it is determined that they do not meet inclusion criteria. Participants who did not meet the screening criteria are to be reported as withdrawals from the study at the time of continuation.

Exceptions to obtaining consent prior to screening may be made, e.g., if the screening is done through a phone call that the participant initiates and that does not involve extensive or intrusive questions. During the screening process identifiable information should not be recorded 1) until after a participant signs an informed consent form, and HIPAA Authorization, if applicable, or 2) without an IRB-approved partial waiver of the requirement to obtain consent, and a waiver of HIPAA Authorization, if applicable. In addition to the required elements of consent, the top of the first page of the consent document must indicate the name of the PI, the name(s) of student investigators, the title of the research study (abbreviated title is permissible if approved by the IRB). The form
must leave a one inch margin at the bottom for IRB approval stamps. Researchers are encouraged to use the IRB's consent form template, however, deviations from this format are allowed on a case by case basis in order to best suit the individual research study (i.e., use of a consent form in the format of a letter to an individual). The PI must explain why the standard template is not suited to the study in the protocol application.

Informed consent is an on-going process and the investigator and/or study personnel must keep participants apprised of any developments that may affect their willingness to continue to participate.

The informed consent form is submitted as part of the IRB application. The consent form must contain a signature and date line for the participant (or the legally authorized representative) and for the person obtaining consent. Unless specifically required by the IRB, witnessing of consent is optional. The IRB may also determine whether assent is required and if so how it shall be obtained and/or documented.

Upon approval, an informed consent form will be stamped with the date of IRB approval and the date through which the approval is valid. The PI and study personnel are required to use copies of the most recently approved and stamped IRB forms when obtaining consent. The participant must be provided with a copy of the IRB approved document that has been signed and dated by the participant (or legally authorized representative) and the person obtaining consent. The PI should also keep one copy of the consent form. Investigators are required to keep consent forms on file for 3 years following the completion of the research (refer to Record Retention section).

Except as subsequently noted, informed consent will be sought and documented for each participant choosing to participate in an approved project. Consent will be in lay terms and in a language understandable to the participant. (Preferably native language if the participant is not fluent in English.) Potential participants must be given sufficient time to have questions answered and to decide whether to participate. It must be explained that participation is voluntary and that choosing not to participate has no impact on benefits to which the participant is otherwise entitled. The consent process and document will contain the elements required in 45 CFR 46.116(a)(1-8) and 46.117 and 21 CFR 50.20, 50.25 and 50.27 as noted below and may contain additional elements in 45 CFR 46.116(b)(1-6), 21 CFR 50.25(b)(1-6) and institutional requirements, as applicable. Exculpatory language which releases or appears to release the institution, sponsor or investigator from liability or which makes or appears to make participants waive any legal rights cannot under any circumstance be included in the informed consent document or process.

Required basic elements of a consent document include:
- a statement that the study involves research,
- an explanation of the purposes of the research,
- an explaining of why the participant is being invited to participate,
- the expected duration of the participant's participation,
- a description of the procedures to be followed,
• identification of any procedures which are experimental,
• a description of any reasonably foreseeable risks or discomforts to the participant,
• a description of the safeguards to be used to protect participants from incurring the risk,
• a description of any benefits to the participant or to others which may reasonably be expected from the research,
• if applicable, a statement that participants will not benefit directly,
• a disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the participant,
• a statement describing the extent, if any, to which confidentiality of records identifying the participant will be maintained (for studies involving the use of drugs, devices or biologics, indicate that the FDA and sponsor may inspect records),
• a statement that the IRB and its staff may inspect study records,
• an explanation as to whether participants will be compensated for participation and if so the terms of the compensation,
• an explanation as to whether any compensation is available if injury occurs, and, if so, what it consists of, or where further information may be obtained,
• an explanation as to whether any medical treatment is available if injury occurs and, if so, what it consists of, or where further information may be obtained,
• an explanation of who to contact for answers to pertinent questions about the research and research participants' rights, and who to contact in the event of a research-related injury to the participants, and
• a statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the participant is otherwise entitled, and the participant may discontinue participation at any time without penalty or loss of benefits to which the participant is otherwise entitled.

Additional elements that the IRB may require within a consent document include:
• a statement that the particular treatment or procedure may involve risk to the participant which are currently unforeseeable (required when the study involves the use of investigational, drugs, devices or biologics, or drugs for which post marketing safety/efficacy data are being collected);
• a statement indicating the approximate number of participants involved in the study;
• a statement that the particular treatment or procedure may involve risks to the embryo or fetus, if the participant is or becomes pregnant which are currently unforeseeable (required when the study involves the use of investigational drugs, devices or biologics and participants are or may become pregnant or when there is insufficient data on how a marketed drug impacts embryos or fetuses and participants are or may become pregnant);
• anticipated circumstances under which the participant's participation may be terminated by the investigator without regard to the participant's consent (required when the investigator may remove a participant from a trial due to medical/safety issues, participants inability to continue to provide informed consent, participant's noncompliance with the direction of the investigator, or other scenarios when the
investigator may determine it is in the best interest of the participant to withdraw them from the trial);

- any additional costs to the participant that may result from participation in the research (required if the participant will incur any permanent or temporary out-of-pocket expense related to participation in the trial, e.g., for procedures, drugs, research related injury, etc.);

- the consequences of a participant's decision to withdraw from the research and procedures for orderly termination of participation by the participant (required if the participant's decision to withdraw will raise safety concerns, e.g., withdrawal from medications that should be tapered rather than abrupt);

- 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 (required for treatment trials or trials of moderate or more risk);

- disclosure of when a blind will be broken if the participant has an adverse event;

- disclosure of whether participants are / are not intended to share in financial gains resulting from the study (required when the study results may lead to the development of a product or technique that will provide financial benefit to HU, the sponsor, and/or the PI);

- a statement describing alternatives to course-required participation;

- an explanation that the study involves use of video or audiotaping, including a statement about how the recordings will be used and how long they will be kept. This statement should include who will see/hear the recording and where it will be used (e.g., in a classroom, professional meeting). If the investigator wants permission for the recording to be viewed/heard by anyone other than the research staff, or if it involves sensitive material, participants should also be given an opportunity to view (or listen to) the recording after it is completed. Permission for the tape to be used should then be obtained. The consent form must also clearly state who will transcribe the tapes and, if third-party transcriptionists will be used, what steps will be taken to protect participant confidentiality.

The IRB may require the following elements for studies involving genetic research:

- if family members may become aware of the information related to the study and to participant, or the participants may become aware of information about themselves or family members that they would preferred not to have known, that possibility must be disclosed by the PI in the consent form. Consent from the participant for disclosure of relevant information to relatives when the release of that information may improve the prognosis of the relatives will be sought. However, the participant must be made aware of the possibility of such a disclosure without consent. Disclosure that breaks confidentiality may occur if there is a treatment that will help the prognosis of the family member(s). To break confidentiality the following conditions outlined by the President's Commission (1983) must be satisfied:
  - reasonable efforts to obtain voluntary consent for disclosure have failed;
  - there is a high probability that harm will occur from withholding the information and that the disclosure will avert that harm; and
• the harm that would likely occur would be serious.
  o only the information needed for diagnosis and treatment is disclosed;
• a statement that the action of the participants may place them at risk (e.g., if they self disclose to their employer);
• a detailed description of what information will be presented to participants including:
  o what type of information will be provided to them or others,
  o who will provide the information,
  o how the information will be communicated,
  o at what point in the study it will be provided,
  o whether interim findings will be disclosed or not,
  o the reliability of the information being provided, and
  o what information will not be provided to them;
• if study information is intended to be shared with participants, the consent form must include an option whereby participants retain the choice of being told or not being told that information. An exception to the right not to know may occur when treatment could improve the prognosis. The PI must explain to the participant within the consent form whether the right not to know will be honored in such a circumstance;
• if the study is likely to yield unexpected or unrelated findings the consent must:
  o state that findings that do not affect the health of the participant or health of family members. For example, issues of maternity or paternity, will not to be disclosed,
  o either provide participants with an option of receiving or declining to receive information on unexpected and/or unrelated findings that are health-related, or
  o inform the participant that such information will be disclosed;
• information regarding genetic counseling by qualified genetic counselors if a study may reveal important genetic information, e.g., being a carrier for an illness that has not yet manifested. At whose expense the counseling is provided must also be disclosed.

B. Who May Obtain Consent
The PI or a qualified individual authorized by the PI on the IRB application may obtain informed consent. The individual who obtains consent must possess an in-depth knowledge of the protocol and be able to answer all questions posed by the participant. The individual obtaining consent must disclose their role in the study to the participant (e.g., PI, co-investigator, study coordinator, research assistant, etc.). The individual obtaining consent is required to have completed training in the protection of human participants in research. Completion of training will be verified through the screening of IRB applications and the auditing of approved studies.

C. Standard Consent and Documentation
With the few exceptions noted below, consent must be obtained from individuals of at least 18 years of age who are competent to give informed consent. Such individuals are considered to have decision-making capacity if (1) they have not been declared
incompetent by a court and (2) they are generally capable of understanding the consequences of alternatives, weighing the alternatives by the degree to which they promote their desire, and choosing and acting accordingly. The investigator is to make a practical assessment of the participant's capacity.

Consent will most often be documented using a long form consent document that satisfies the required elements of consent. The participant (or the participant's legally authorized representative) and the person obtaining consent must sign and date the form prior to study participation. The person obtaining consent must provide the participant (or the participant's legally authorized representative) with a copy of the signed and dated document. When it is feasible, the person obtaining consent must sign and date the form in the presence of the participant.

D. Waiver of Consent or Alterations to Elements of Consent

There are some scenarios by which it is possible for the IRB to waive or alter the elements of informed consent.

Scenario 1: The first method relates to studies that are conducted by or subject to the approval of state or local government officials (45 CFR 46.101(b)(5)). The study must also be designed to study, evaluate, or otherwise examine one or more of the following items:

i. public benefit of service programs;
ii. procedures for obtaining benefits or services under those programs;
iii. possible changes in or alternatives to those programs or procedures; or
iv. possible changes in methods or levels of payment for benefits or services under those programs.

The IRB must also find that the research could not practicably be carried out without the waiver or alteration. To request this method of waiver or alteration the investigator must complete the Waiver or Alteration of Consent section of the IRB-5 Exemption protocol application. The Chair will make the final determination as to whether or not to approve the request for an expedited study and IRB will make the determination for full board studies.

Scenario 2: PIs may request that the requirement of informed consent be waived or altered. In order to do so the investigator must complete the Waiver or Alteration of Consent section of the IRB-1 protocol application. The Chair will make the final determination as to whether or not to approve the request for an expedited study and the IRB will make the determination for full board studies. In order to do so the IRB must find that:

- the research involves no more than minimal risk to participants;
- the waiver or alteration will not adversely affect the rights and welfare of the participants;
- the research could not practicably be carried out without the alteration or waiver; and
when appropriate participants will be provided with additional pertinent information regarding participation.

Alterations to the requirements of consent process allow for deviations from the regulatory requirements of consent but consent is still obtained. Examples of potentially approvable alterations to consent include:

- the use of implied/passive consent (e.g., via the return of completed surveys); or
- deception in research (see Informed Consent Requirements with Use of Deception in Research later in this document).

The IRB must find and document justification for any alteration to the requirements of consent. The request to waive or alter consent described in method 1 and 2 are not applicable to FDA regulated studies.

Occasionally investigators will seek information about individuals who are not principals to the research ("secondary participants"). These individuals could be members of the principal participant's family, sexual partners, friends, co-workers, etc. Such individuals may be participants in their own right, even if the investigator never has any contact with the individual. The federal regulations define a human participant not only as someone with whom the investigator interacts, but also as someone about whom the investigator seeks information. Therefore, the IRB must evaluate the consent process for each class of participant and will expect the protocol to describe an appropriate consent process for each such class. It may be possible for the investigator to ask the IRB to waive the requirement for consent, but only if the criteria described in scenario 2 are met.

**E. Waivers of Documentation of Consent**

In certain scenarios the IRB may still require that consent be obtained but waive the requirement to obtain documentation of consent. In order to do so the IRB must find that:

- the only record linking the participant to the study is the signed consent document and the principal risk would be harm resulting from a breach of confidentiality (participants must still be given the option of signing a consent document and the participant's wishes will prevail), or that
- the research presents no more than minimal risk of harm to participants and involves no procedures for which written consent is normally required outside of the research context.

For studies subject to FDA regulations, only the latter provision is applicable.

If the requirement of documentation is waived, the IRB usually requires the investigator to provide the participant with a written summary of the research (i.e., "information sheet"). The IRB must review and approve that summary. The PI may request and the IRB may approve that a consent form also serve as the written summary.

**F. Assessment of Participant’s Understanding of the Research and Consent Process**

The IRB may require the PI or individual obtaining consent to confirm the potential participant's level of understanding, e.g., the IRB may require that the potential participant be able to describe in his/her own words the purpose of the study, the risks involved in the study, the possible benefits of the study either in writing or verbally with
or without a witness present. The PI can facilitate this process by asking the participant open-ended questions such as:

- Just so that I'm sure you understand what is expected of you, would you please explain to me what you think we're going to ask you to do?
- Describe in your own words the purpose of the study.
- What more would you like to know?
- What is the possible benefit to you of being in the study? What are the risks?

**G. Consent from Emancipated Individuals**

Emancipated individuals between the ages of 16 - 18 may provide consent to participate in research activities. The emancipated participant must provide proof of emancipated status. The person obtaining consent must attach this proof to the informed consent form. An emancipated individual does not meet the federal definition of child and therefore subpart D is not applicable.

**H. Consent from Individuals Under 18 Years of Age for Certain Research Procedures**

In specific circumstances, individuals under the age of 18 may provide consent to participate in research without demonstrating emancipated status when the research is limited to the categories noted below. In such circumstances the individuals are not considered children and therefore subpart D is not applicable.

1. All individuals under 18 years of age, if the research procedures are limited to:
   - HIV testing, counseling, and treatment
   - Outpatient mental health services
   - Testing or treatment for sexually transmitted diseases
   - Treatment or rehabilitation for alcohol or drug dependence
   - Abortion counseling and treatment

2. All individuals between 16 and 18 years of age, if the research procedures are limited to:
   - Inpatient mental health services

3. All individuals between 17 and 18 years of age, if the research procedures are limited to donation of blood or any component thereof and to the withdrawal of blood in conjunction with any voluntary blood donation program.

**I. Informed Consent Requirements with Use of Deception in Research**

The use of deception in research (e.g., participants are initially misinformed deliberately for purposes of the study) raises special issues that the IRB will review closely, especially with protected and vulnerable populations, including Native Americans. One consideration is whether the deception is necessary. An investigator proposing to use deception should justify its use. Federal regulations prohibit the use of deceptive techniques that place participants at greater than minimal risk. The IRB may modify the informed consent process for research involving deception when participants are not placed at risk. However, potential participants should be advised in the consent form that the information they are given is not complete and that they will be debriefed after the research procedures are completed.
The debriefing should include a detailed description of the ways in which deception was used. The investigator is responsible for ensuring that the participant leaves the research setting with an accurate understanding of the purpose of the research and why deception was used. The debriefing process, including any written materials, should be provided to the IRB as a part of submitted protocols. The following statement, or some similar statement, must appear in every consent form/information sheet for studies involving deception:

"Research designs often require that the full intent of the study not be explained prior to participation. Although we have described the general nature of the tasks that you will be asked to perform, the full intent of the study will not be explained to you until after the completion of the study. At that time, we will provide you with a full debriefing which will include an explanation of the hypothesis that was tested and other relevant background information pertaining to the study. You will also be given an opportunity to ask any questions you might have about the hypothesis and the procedures used in the study."

J. Consent by Phone/Fax

Consenting a participant, including consent from legally authorized representatives, is a process that should occur in person. Only for extenuating circumstances or minimal risk studies will the IRB consider the possibility of obtaining consent by phone or fax. The IRB may implement either of the following procedures:

**Procedure 1:**
- the potential participant must be given a copy of the approved, IRB-stamped consent document (either by mail, fax or e-mail of scanned document) prior to the phone conversation and with enough time allowed to read the document prior to the conversation;
- the individual obtaining consent must have a witness present for the entire conversation;
- participant must be informed that the witness is present and consent to the witness listening to the entire conversation (via speaker or extension phone);
- participant must be instructed that if s/he agrees to participate s/he must return the signed, dated and time stamped consent document (either by mail, fax or e-mail of scanned signed document); and
- the individual obtaining consent and the witness must sign, date and time stamp the IRB approved consent document upon completion of the phone conversation;

**Procedure 2:**
- the investigator requests a waiver of the requirement to document consent at the time of initial application or via a request for modification using the IRB-3 Amendment Review Form;
- a script of the phone conversation incorporating the elements of consent must be submitted to the IRB for approval;
- the IRB may require that the investigator provide participants with an IRB approved written statement (via mail, e-mail or fax) regarding the research.

In Procedure 1, the participant's signed and dated consent form must be received before any research intervention occurs.

K. Witnessing of Consent
The consent process generally does not have to be witnessed but the IRB may require this. For example, the IRB may require this when vulnerable or special classes of participants are involved in the study, the study is very complex in nature, or when the consent process occurs via phone. When an individual is signing the form as a witness, exactly what is being witnessed must be explained. For example, is the individual a witness to the signature only or a witness to the entire consent process? The IRB may determine what is required to be witnessed and who may serve as the witness. For example, the IRB may require that the entire consent process be witnessed by a research participant advocate, a representative of the IRB, research study personnel, a primary caregiver or other appropriate individual. Per Federal regulation 45 CFR 46.117(b)(2), a witness will be required if a short form written consent has been approved for oral presentation to the participant.

L. Requirement for Witness Signature on the Consent Form
It is possible to conduct an oral presentation of informed consent information in conjunction with providing 1) a short form written consent document stating that the elements of informed consent have been presented orally and 2) a written summary of what is presented orally. Per 45 CFR 46.117(b)(2), a witness must be present throughout the process. The IRB must approve the short form consent and a written summary of what is to be said to the participant or the representative (an approved informed consent form may serve as the written summary). At the time of consent the participant or the participant's representative signs and dates the short form. The witness shall sign and date both the short form and a copy of the summary, and the person actually obtaining consent shall sign and date a copy of the summary. A copy of the summary and the short form shall be given to the participant or the legally authorized representative. This process also applies to FDA regulated studies.

M. Consent for Participants Not Fluent in English
For participants not fluent in English, the consent process and document must be presented in a language (preferably native) understandable to them. Refer to the section on translation policy later in this document for more detailed information on the acceptable methods of translating documents. If it is expected that participants who do not speak English will be enrolled in a study, translated documents should be made available.

At times investigators may unexpectedly encounter a potential participant who does not speak/understand English. In such an event it may be acceptable to use the oral consent process. If using the alternative approach of an oral presentation of informed consent, as described above, a witness who is fluent in both languages must be present throughout the process. The English version of the informed consent form may serve as the summary form. The participant receives copies of the short form document and the summary. The oral presentation and short form document must be in a language (preferably native) understandable to the participant. At the time of consent the short form is signed and dated by the participant, the summary is signed and dated by the person obtaining consent, and both forms should be signed and dated by the witness.
The IRB must receive all foreign language versions of the short form document as a condition of approval under the provision of 45 CFR 46.117(b)(2). For studies initially reviewed via the full board, expedited review of the translated document is acceptable only if the English language version of the informed consent document and short form document have already been approved.

The IRB makes the final determination as to whether to require a complete written informed consent form or to accept an oral presentation of consent with the summary documents.

N. Consent Forms in Research Records
The PI will maintain the original informed consent document in a participant's research record or file. The participant must be informed of where the consent form (as well as other research related information) will be filed.

O. Re-Consenting Participants
The IRB requires that participants be re-consented if there have been developments that may affect a participant's willingness to continue to participate. The investigator must submit a request to amend the informed consent form to the IRB and then, after obtaining approval, re-consent the participants at the next regularly scheduled visit. Re-consenting a participant will serve to demonstrate that s/he has been informed of the additional information and that s/he willingly consents to continued participation. If the consent document has not yet been approved by the IRB at the time of the visit, a qualified member of the research team must provide a verbal explanation of the information to the participant and document the explanation in the research or medical record as appropriate to the study. In this circumstance, the participant is to sign the revised consent document at the next available opportunity.

The investigator or IRB may also determine that participants need to be contacted immediately depending on the nature of the information and the level of risk it presents to participants. This may occur prior to the consent document being approved. For example, if the PI learns that a drug is causing life threatening adverse events, the PI will determine the best way to communicate the information to the participants in the study. Consideration must be given to the participant's underlying condition, available support systems, and the nature of the information being conveyed. The PI must document the contact with the participants and inform the IRB of the contact.

Minor participants who are actively participating in a study when they reach the age of majority should be re-consented as adults at the next regularly scheduled visit. If procedural changes are made to the informed consent form and those changes are not pertinent to an individual participant there is no need to re-consent. For example, if a procedure is added to the first visit and some participants have already progressed beyond that phase of the study they do not have to be re-consented. A member of the research team should however note in the record why the participant was not required to be re-consented.
If there are administrative changes to a consent document, e.g., in terms of contact names or numbers, participants still actively enrolled may be re-consented but it is not a requirement. However, the PI must ensure that the participants are provided with the revised information via letter, e-mail or some other means approved by the IRB.

P. Long-Term Follow-Up
Participants in long-term follow-up must be informed of outcome data and safety related information. They need not be informed of changes to the protocol if they are no longer in the active phase of the study. The PI will determine the mechanism of communication, giving consideration to the participant's underlying conditions, available support systems and the nature of the information being conveyed.

Q. Observation of Consent Process
The consent process may be observed by the IRB Monitor or other representative of the IRB. The observation will be done to ensure compliance with regulations and policy, for quality improvement and for educational purposes. Verbal consent of the participant may be sought prior to the observation.

R. Assent from Children or Decisionally Impaired Individuals
The IRB expects that children and those individuals who are not competent to provide consent should be given the opportunity to assent to participate in the research project. Assent is a knowledgeable agreement to participate in the project. Adequate provisions should be made for soliciting the independent, non-coerced assent from children or cognitively impaired persons who are capable of a knowledgeable agreement. In cases where assent is obtained from a child or cognitively impaired participant, permission must also be obtained from parents or legally authorized representatives. In accordance with the ethical principal of respect for persons, if the person from whom assent is sought refuses, the person should not be enrolled, even if the parents or legally authorized representatives give permission. Alternatively, if the person from whom assent is sought agrees to participate, the person may not be enrolled if the parents or legally authorized representatives do not give permission. In rare circumstances, depending on the nature of the study and the age and circumstances of the child or decisionally impaired person, the IRB may waive the requirement for permission from parents or legally authorized representatives.

The scenarios outlined below are general and may be altered by the IRB depending on the nature of a specific study and the mental and physical status of the individual involved. The assent of the child may not be required in all situations. The IRB will determine, whether one or both parents must sign a parental permission form. The IRB may find that permission from one parent (or legally authorized representative) is sufficient for research involving no greater than minimal risk or for research involving greater than minimal risk but holding out the prospect of direct benefit to the participant. If the IRB finds that permission from one parent is sufficient the justification for this finding will be documented in the 'requires modification' and/or approval letters and, for full board reviews, in the minutes of a convened meeting.
If the participant is 12 years of age or older, the child signs and dates an assent signature line on the parental permission form and a parent or guardian also signs the parental permission form. In certain circumstances, the PI may propose or the IRB may require that a separate assent statement is necessary. For example, the PI may wish to reinforce the voluntary nature of participation and the nature of the study with minor participants in studies taking place at a school where the parents have already given permission of the minor participant to participate in the study.

If a separate assent form is required, both the form and the assent discussion with the participant should be in language especially tailored for the participant class and should describe the following:

- Explain why the study is being conducted;
- Describe what will happen and for how long or how often;
- State it is up to the child/individual to participate and that it is okay to say no;
- Explain if it will hurt and for how long and how often;
- Say what the child's/individual's other choices are;
- Describe any good things that might happen;
- Say whether there is any compensation for participating; and,
- Ask for questions.

The assent form should be limited to one page. Illustrations might be helpful and larger type makes it easier for some individuals to read. In studies involving older children or adolescents it may be possible for the child to read and indicate assent on the assent form. If the child is between 7-12 years of age, and the study is a therapeutic trial, the parent signs the parental permission form and the child participant does not have to sign. If the study is not a therapeutic trial, the parents or guardians sign the parental permission form and the participant signs an assent statement that is either included at the end of the parental permission form after the signature lines or as a separate document.

If the child is less than 7 years of age, the parent or guardian signs the parental permission form, the participant signs nothing. No assent statement is required. However, the PI or person obtaining consent must document in the study record that the child was willing to participate.

S. Consent from Illiterate Participants
At the onset of the consent process, the PI or designated individual authorized to obtain consent must ask the participant if any special provisions are required by them for the consent process, including having the consent document read to them. A witness to the process is required when obtaining consent from illiterate participants. An illiterate participant may make their mark on the consent form to indicate a willingness to participate. A video or audio tape of the process is recommended but the participant must consent to the taping and that consent must be on the tape. If taped, a copy of the tape must be provided to the participant and a copy must be retained with the study records.

T. Consent from Legally Authorized Representatives
When a potential participant is unable to provide consent due to impaired competency, it must be obtained from a legally authorized representative of the participant. Under DHHS and FDA regulations "legally authorized representative" means an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective participant to the procedure(s) involved in the research. When research is conducted in Connecticut, the persons who meet the above definition are a child's parent(s), court-appointed conservators with specific authorization to consent to research, or court appointed guardians with specific authorization to consent to research, and individual who holds a research power of attorney.

Mentally retarded adults who have been declared incompetent must have an appointed legal guardian provide consent to participate in research. The natural parents of the adult are not authorized to give permission unless they have been appointed legal guardian(s). If a developmentally disabled adult has not been declared incompetent, the PI must decide if the participant is capable of understanding the elements of informed consent. A family member or other representative may be asked to co-sign. If the investigator determines the participant is not capable of providing consent, a legal guardian must be appointed and must provide consent before the participant can be enrolled.

**U. Waiting Period Requirement**

The IRB reserves the right to require a waiting period between the time a study is explained to a potential participant and/or the potential participant's representative, and the time consent is sought from the potential participant or representative. Scenarios when this option may be exercised include, but are not limited to, studies that involve vulnerable populations or studies that are of high risk.

**V. Staged Consent Process**

The IRB reserves the right to require a staged consent process whereby consent is obtained at various stages in the study to ensure the participant is still willing and/or still able to provide consent. Scenarios when this option may be exercised include, but are not limited to, studies that involve vulnerable populations, for example populations with diminishing capacity, longitudinal studies, or studies that are of high risk.

**W. Considerations for Informed Consent for International Research**

Field research done outside of the United States, especially in non-western societies or places where the participants do not speak English, poses some problems in obtaining written documentation of informed consent. In these situations, it is sometimes impossible, for a variety of reasons, to obtain written consent. If that is the case, the investigator must provide the IRB with a statement of the reasons why it should waive written consent, and also provide an acceptable alternative method of obtaining oral consent, which is appropriate to both the participants and their culture.

If the participants may be economically or educationally disadvantaged, the investigator should pay particular attention to these issues and ensure that appropriate safeguards have been implemented.
X. Informed Consent Requirements for Research with a Certificate of Confidentiality

A certificate of confidentiality protects the participant's confidentiality by protecting research records from subpoena. The certificate goes beyond the consent form in ensuring confidentiality and anonymity. Without the certificate, researchers can be required by a court-ordered subpoena to disclose research results (usually as part of a criminal investigation of the participants). Certificates of Confidentiality are provided by the federal Department of Health and Human Services, however, the study's funding source is not relevant to the granting of a certificate.

While a Certificate of Confidentiality offers retroactive protection, it is advisable to apply for the certificate at least three months prior to the expected initiation of research procedures. It is helpful to the IRB for researchers to submit the certificate with their IRB application.

The following language is typical of Certificate of Confidentiality requirements. Either this or other similar language must be present in the consent form.

"To help protect your privacy, the researchers have obtained a Certificate of Confidentiality from the National Institutes of Health. With this certificate, the researchers cannot be forced to disclose the information that may identify you, even by a court subpoena, in any federal, state, or local civil, criminal, administrative, legislative, or other proceedings. The researchers will use the Certificate to resist any demands for information that would identify you, except as explained below. The Certificate cannot be used to resist a demand for information from personnel of the United States Government that is used for auditing or evaluation of federally funded projects or for information that must be disclosed in order to meet the requirements of the Federal Food and Drug Administration (FDA).

You should understand that a Certificate of Confidentiality does not prevent you or a member of your family from voluntarily releasing information about yourself and your involvement in the research. If an insurer, employer or other person obtains your written consent to receive research information, then the researcher may not use the Certificate to withhold that information.

The Certificate of Confidentiality does not prevent the researchers from disclosing voluntarily, without your consent, information that would identify you as a participant of the research project in instances such as evidence of child abuse or a participant's threatened violence to self or others."

Y. Recommendations for Translation of Documents and the Consent Process

Study related documents (e.g., the informed consent document, the HIPAA authorization, or survey instrument) must be presented in a language understandable to the participant. The IRB recommends the use of one of two methods for translation. One method is that the document be translated by a professional translation service that will attest to the accuracy of the translation. The second is the use of back-translation into English. In this scenario:

- the English version of the document is translated into the foreign language;
• the name and credentials of the individual who did the translation are provided to the IRB by the investigator;
• another individual who has not seen the English version of the document translates the foreign language document back into English;
• this individual provides his/her name, credentials and a statement that s/he has not seen the original English version to the IRB via the investigator;
• both English versions of the form and the foreign language version are submitted to the IRB for review; and
• the IRB will compare both English versions of the documents.
If the IRB determines that the translation is accurate, the foreign language document will be approved for use.

The informed consent process must also be conducted in a language understandable to the participant and may therefore require the use of a translator or sign language interpreter. In most cases, the translator may be a family member or friend of the participant, an employee of the institution or may be hired by the PI. The IRB will determine whether a professional translator is required on a case-by-case basis. The PI is responsible for covering the cost of the translation. The cost of the translation will not be incurred by the participants.

If one of the two recommended methods is not feasible, the IRB will accept certification from the PI that he/she or a member of the research staff translated the document and that the translation is accurate. This verification must accompany submission of the translated documents.

Z. Health Insurance Portability and Accountability Act (HIPAA) and Research

The Health Insurance Portability and Accountability Act (HIPAA), also called the Federal Privacy Rule, went into effect on April 14, 2003. HIPAA requires that "covered entities" engaged in research maintain the privacy of the Protected Health Information (PHI) that is created, accessed or shared in the course of Research activity. A covered entity is a health care provider, payor, or clearinghouse that conducts certain types of electronic billing. PHI is individually identifiable information transmitted or maintained in any form (electronic means, on paper, or through oral communication) that relates to the past, present or future physical or mental health or conditions that can reasonably be used to identify an individual.

A request for the use and disclosure of PHI requires permission from each subject, called an Authorization to Use and Disclose Protected Health Information. "Use" of PHI is the sharing of PHI within the institution (i.e., from clinician to investigator). "Disclosure" of PHI is the sharing of PHI outside of the institution (i.e., from investigator to a participant's physician).

While the IRB is not responsible for HIPAA compliance at the covered entities on campus, the IRB will review each protocol on a case-by-case basis to ensure that when the HIPAA regulations apply, they are complied with. Each investigator is responsible for
complying with the HIPAA regulations from the institution(s) from which they wish to obtain PHI or where they will be conducting their research.