MCW Office of Research
Standard Operating Procedure

DEFINITION AND DETERMINATION OF HUMAN SUBJECTS RESEARCH

Unit: Human Research Protections Program (HRPP), Office of Research

Applies to: Faculty and Staff involved in human research

PURPOSE:
It is the responsibility of the MCW Institutional Review Board (IRB), staff and committee members to ensure the proper application of the definition of human subjects research and to provide investigators with guidance regarding this definition. It is the responsibility of principal investigators to ensure the proper application of the definition to their human subjects research projects and apply to the IRB for its review. Investigators must submit to the IRB for review prior to initiating the research regardless of whether their activities involve human subjects. Investigators may not independently make the determination whether an activity involves research; the IRB will make the independent determination regarding human research subject involvement.

DEFINITIONS:
Research: A systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program which is considered research for other purposes. For example: some demonstration and service programs may include research activities.

Systematic Investigation: A project which:

- Attempts to answer research questions (e.g. attempts to prove a hypothesis).
- Is methodologically driven, i.e. it collects data or information in an organized and consistent way.
- Analyzes information quantitatively and/or qualitatively.
- Draws conclusions from the results.

Generalizable Knowledge: Knowledge which contributes to a theoretical framework of an established body of knowledge. Results are expected to reflect a larger population beyond the studied population, and are expected to be replicable in other settings.

Human subject:

- A living individual about whom an investigator (whether professional or student) conducting research:
  - Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens, or;
  - Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens.

- An individual who is or becomes a participant in research, either as a recipient of the test article or as a control. A subject may be either a healthy individual or a patient. (21 CFR 56.102)

Intervention: Both physical procedures by which information or biospecimens are gathered (e.g., venipuncture) and manipulations of the subject or the subject's environment that are performed for research purposes.

Interaction: Communication or interpersonal contact between investigator and subject.

Private information: Information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and that the individual can reasonably expect will not be made public (e.g., a medical record).

Identifiable private information: Private information for which the identity of the subject is or may readily be ascertained by the investigator or associated with the information.

Identifiable biospecimen: A biospecimen for which the identity of the subject is or may readily be ascertained by the investigator or associated with the biospecimen. (45 CFR 46.102)

Engaged in Research: An institution becomes "engaged" in human subjects research when its employees or agents (i) intervene or interact with living individuals for research purposes; (ii) obtain individually identifiable private information for research purposes; (iii) obtain informed consent of human subjects for research; or (iv) receive an award directly from HHS even when all activities involving human subjects are carried out at another institution or by employees of another institution . For purposes of this definition, the term "agents" include all individuals performing institutionally designated activities or exercising institutionally delegated authority or responsibility. Solicitation of consent by performance site staff would be considered engagement in research.

Clinical Investigation: Any experiment that involves a test article and one or more human subjects and that either is subject to requirements for prior submission to the Food and Drug Administration under section 505(i) or 520(g) of the act, or is not subject to requirements for prior submission to the Food and Drug Administration under these sections of the act, but the results of which are intended to be submitted later to, or held for inspection by, the Food and Drug Administration as part of an application for a research or marketing permit. The term does not include experiments that are subject to the provisions of part 58 of this chapter, regarding nonclinical laboratory studies.

Minimal Risk: The probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests. Minimal risk projects may not require review at a convened meeting. A research project cannot be determined minimal risk unless all research activities are determined minimal risk.

Convened Meeting Review*:* Review of proposed research at a convened IRB meeting at which a majority of the membership of the IRB is present, including at least one member whose primary concerns are in nonscientific areas. For the research to be approved, it must receive the approval of a majority of those members present at the meeting.

Decedent Research: Research that uses *only* human cadavers, cadaveric tissues, or the data/specimens of deceased individuals. This research is often considered "Not Human Subjects Research."

Not Human Subjects Research (NHSR): Projects that do not fit the definition of research, do not actively involve human subjects, do not access private, identifiable human data, and are not purposed to support the marketing of an FDA-regulated drug, biologic, or device product.

POLICY:
Investigators can consult with the Human Research Protection Program (HRPP) Office regarding their project at any time before, during, or after review. All official determinations made by the IRB are delivered in determination letters via eBridge.

Review of research involving human subjects:
The HRPP Office must review all human subjects research in which we are engaged in accordance with MCW IRB policies and MCW Corporate Policy *RS.HS.040 – Human Research Protection Program*. Investigators must submit all research to the HRPP Office for review via the eBridge system. Human subjects research activities must not begin until the project team receives the official IRB determination letter via eBridge.

The IRB will make the ultimate determination regarding whether a human subjects research project requires review at a convened IRB meeting or whether it can be processed via one of the minimal risk pathways. For a human subjects research project to qualify as minimal risk, all research activities must qualify under federal determinations of Exempt or Expedited research (45 CFR 46.104 and 45 CFR 46.110), and/or institutional categories defined in *IRB SOP: Registration Projects: Human Subject Research Projects which Qualify for FLEX Review*. If any research activity at any site is more than minimal risk – regardless of whether the MCW IRB is reviewing said activity – the project must undergo review at a convened meeting.

Review of Not Human Subjects Research (NHSR) projects:
The HRPP Office is responsible for determining if a project qualifies as human subjects research. All research and NHSR determinations are made by the HRPP Office and documented via the eBridge system.

Review of research regarding decedents:
Research protocols involving only decedents may not constitute human subjects research; however, based upon federal HIPAA regulations at 45 CFR 46.160 and 164, review by a Privacy Board is required. The MCW IRB also serves as the Privacy Board for all research under its jurisdiction. Therefore, NHSR projects involving decedents must also be submitted via eBridge for HIPAA review and determination.

Review of research involving human fetal tissue:
All research using human fetal materials must be submitted to the HRPP Office. See *IRB SOP: Use of Human Fetal Tissue in Research* for further information.

REFERENCES:
45 CFR 46.102
45 CFR 46.104
45 CFR 46.110
45 CFR 46.160
45 CFR 46.164

21 CFR 50.3(c)
21 CFR 56.102
21 CFR 58
Federal Food, Drug, and Cosmetic Act Sections 505(i) and 520(g)

SUPPORTING DOCUMENTS:
MCW Corporate Policy RS.HS.040 – Human Research Protection Program
IRB SOP: Registration Projects: Human Subject Research Projects which Qualify for FLEX Review
IRB SOP: Use of Human Fetal Tissue in Research

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