From: OC GCP Questions
To: [redacted]
Subject: RE: GCP Informed Consent Question
Date: Wednesday, February 12, 2014 12:20:00 PM

Good morning,

Hopefully, I can clarify this for you. There may be some confusion of what is required by regulation versus what is recommended as part of guidance. The ICH E6 guidelines are an official FDA guidance and, as mentioned in other guidance documents, the use of the word "should" in guidance means that something is suggested or recommended but not required.

A witness would not be required for obtaining consent for a subject or a legally authorized representative who is able to read and understand the consent form. Should a subject or a legally authorized representative not be able to read the consent form, the regulations allow the form to be read to the subject, providing they are given opportunity to consider the information before it is signed. The Frequently Asked Questions you refer to also discuss the fact that an IRB may wish to consider such subjects likely vulnerable to coercion or undue influence and may wish to consider appropriate safeguards when enrolling these subjects.

In contrast, when a "short form" is used to obtain consent under 21 CFR 50.27(b)(2), a witness is required to be present and sign the short form and a copy of the summary of what was presented to the subject.

Lastly, I would note that some sponsors have their own requirements as to whether a witness must be present and/or sign the consent document. Such requirements may be more than is required under the regulations but there would be no prohibition on a sponsor having such requirements.

I hope this information is helpful. Please contact us again at gcp.questions@fda.hhs.gov should you have additional questions.

Patrick J. McNeilly, Ph.D., C.I.P.
Office of Good Clinical Practice
Food and Drug Administration

From: [REDACTED]
Sent: Tuesday, February 11, 2014 3:50 PM
To: OC GCP Questions
Subject: RE: GCP Informed Consent Question

Dr. McNeilly,

I apologize for sending two emails, but I wanted to point out some information I found from the FDA website in regards to IRB FAQ's. Questions and answers for number 39, 40, and 41 seem to clarify that a witness is not necessary when a patient is able to understand and comprehend the document. : http://www.fda.gov/RegulatoryInformation/Guidances/ucm126420.htm#Informed%20Consent%20Process

Also of note, a posting in 2007 on Firstclinical.com, suggests that the signature of a witness is only required for short form consents: http://firstclinical.com/fda-gcp/?show=2007/RE%20Witness%20Signature%20Requirements&format=fulllist

Could you verify this for me? Also, if this is the FDA guidelines, does it also apply for GCP guidelines?

Thanks for all your help.

Best,
[REDACTED]

From: OC GCP Questions [mailto:gcp.questions@fda.hhs.gov]
Sent: Tuesday, February 11, 2014 3:10 PM
To: [REDACTED]
Subject: RE: GCP Informed Consent Question

Good Afternoon,

Under 21 CFR 50.27(b)(2), the use of a short form written consent requires the presence of a witness to the oral presentation and that witness must sign the short form document itself and a copy of the written summary of what is to be presented to the subject. This procedure may be used when subjects are unable to read or with study populations with disabilities (e.g., patients with macular degeneration) where it may be appropriate.

In general, the witness to the consent process witnesses the delivery of information given to the subject or the subject's legally authorized representative as well as the signature on the consent form. The purpose of the witness is generally to ensure that the information was accurately conveyed, questions were answered, and the subject voluntarily consented through signing the form. In some cases the witness may help to clarify information when a subject has difficulty understanding something being said. The 1981 preamble to the informed consent regulations states that "...a witness must be present to attest to the adequacy of the consent process and to the voluntariness of the subject's consent." See 46 FR 8949, comment 52. January 27, 1981 (link: www.fda.gov/ScienceResearch/SpecialTopics/RunningClinicalTrials/ucm113818.htm). Thus, FDA expects the witness to be present during the entire consent interview, not just for signing the documents.

I hope this information is helpful. Please contact us again at gcp.questions@fda.hhs.gov should you have additional questions.

Patrick J. McNeilly, Ph.D., C.I.P.
Office of Good Clinical Practice
Food and Drug Administration

From: [REDACTED]
Sent: Tuesday, February 11, 2014 8:25 AM
To: OC GCP Questions
Subject: GCP Informed Consent Question

Hello,

I wanted to inquire about a question that recently came up upon reviewing the GCP guidelines for informed consent. It is my understanding that the only time that the GCP guidelines recommend the signature of an impartial witness would be if the subject, or the subject's legally acceptable representative cannot read. Otherwise, the witness is simply validating that the subject did in fact sign the consent document and do not need to "attest that the information in the consent form and any other written information was accurately explained to, and apparently understood by, the subject or the subject's legally acceptable representative, and that informed consent was freely given by the subject or the subject's legally acceptable representative." Could you please guide me if this is the correct interpretation of the guidelines? If not, could you please guide me as to what is intended for best practice? I have copied the sections of the GCP guidelines below for your reference.

Guidance for Industry E6 Good Clinical Practice: Consolidated Guidance

Page 4, Section 1.26 Impartial Witness: A person, who is independent of the trial, who cannot be unfairly influenced by people involved with the trial, who attends the informed consent process if the subject or the subject's legally acceptable representative cannot read, and who reads the informed consent form and any other written information supplied to the subject.

Page 18, Section 4.8.9 If a subject is unable to read or if a legally acceptable representative is unable to read, an impartial witness should be present during the entire informed consent discussion. After the written informed consent form and any other written information to be provided to subjects is read and explained to the subject or the subject's legally acceptable representative, and after the subject or the subject's legally acceptable representative has orally consented to the subject's participation in the trial, and, if capable of doing so, has signed and personally dated the informed consent form, the witness should sign and personally date the consent form. By signing the consent form, the witness attests that the information in the consent form and any other written information was accurately explained to, and apparently understood by, the subject or the subject's legally acceptable

representative, and that informed consent was freely given by the subject or the subject's legally acceptable representative.

Thanks,
[REDACTED]