


**Informed Consent:  
Federal Regulations,  
Institutional Policy &  
Good Practice**

Kelly Unsworth, MS, CCRC  
RSRB Specialist Board 05

January 25, 2011



UNIVERSITY OF ROCHESTER

---

---

---

---

---

---


---

---

**Belmont Report**

“...respect for persons demands that subjects enter into the research voluntarily and with adequate information.”

- Nuremberg Code; Declaration of Helsinki
- HHS: 45 CFR 46.116 (a) 1-8 & (b) 1-6
- FDA: 21 CFR 50.25 (a) 1-8 & (b) 1-6
- ICH Guideline for Good Clinical Practice: 4.8



UNIVERSITY OF ROCHESTER

---

---

---

---

---


---

---

---

**Consent**

- A *process* of information exchange that takes place between the prospective subject and the investigator, before, during and sometimes after the study
  - Written materials (consent form, letters, brochure)
  - Verbal instructions/explanations
  - Q & A
  - Periodic reaffirmation/re-consent



UNIVERSITY OF ROCHESTER

---

---

---

---

---

---

---

---

### Key Components

- To be ethically valid, the consent needs to be:
  - *Informed*: Contains the information needed for a reasonable person to make a decision
  - *Understood*: Provided in understandable language
  - *Voluntary*: Free from coercion
- Distinguish clinical practice from research

---

---

---

---

---

---

---

---

### Required Elements

1. Introduction → including a statement that the study involves research\*
2. Explain the purpose(s) of the research
3. Description of study procedures
  - Identify both standard of care procedures and any that are solely for the purposes of the study
  - Identify experimental procedures (\*\*if drug/biologic/device is not FDA approved, the consent should clearly state so)
4. Expected duration of subject involvement

---

---

---

---

---

---

---

---

### Required Elements

5. Describe reasonably foreseeable risks or discomforts of participation
  - Invasion of subject privacy (\*\*e-records)
6. Benefits of participation to the subject, if any
  - DO NOT OVERSTATE
  - Standard statements: "You will not directly benefit from participating in this research study"; "You may or may not benefit from participation in this research study."

---

---

---

---

---


---

---

---

### Required Elements

7. Alternatives or course of treatment...if they don't participate
  - Standard of care
  - Not applicable if the only alternative is non-participation
8. UR standard compensation for injury language\*
  - Greater than minimal risk (GTMR) studies only
9. Confidentiality of Records and, if applicable, HIPAA Authorization\*



UNIVERSITY OF ROCHESTER

---

---

---

---

---


---

---

---

### Required Elements

10. Contact persons\*
  - PI - questions about research, research-related injury (may need MD &/or 24 hour contact)
  - RSRB - subject rights
11. Statement that participation is voluntary\*
12. Statement that subjects will receive a signed copy of the consent\*
  - HIPAA requires a signed copy be given



UNIVERSITY OF ROCHESTER

---

---

---

---

---


---

---

---

### Required Elements

13. **\*\*NEW\*\* Statement that clinical trial information will be entered into a databank\*\***
  - For applicable FDA studies only (to determine if applicable see: <http://prinfo.clinicaltrials.gov/s801-fact-sheet.pdf>)
  - "A description of this clinical trial will be available on <http://www.ClinicalTrials.gov>, as required by U.S. Law. This website will not include information that can identify. At most, the website will include a summary of the results. You can search this website at anytime."
  - <http://edocket.access.gpo.gov/2011/2010-33193.htm>



UNIVERSITY OF ROCHESTER

---

---

---

---

---

---

---

---

### Additional Elements

1. Unforeseeable risks to the subject
  - Pregnancy – risk to embryo or fetus
  - Include for research involving investigational or marketed drugs or devices for which toxicities are not well-studied in humans
2. Circumstances where the subject may be withdrawn from the study
  - Investigator/Sponsor decision
3. Payments
4. Costs (to insurance or the subject)

---

---

---

---

---

---

---

---

### Additional Elements

5. Consequences of a subject's decision to withdraw from the research and procedures (orderly withdrawal)
  - \*\*not meant as a threat, but to assure continuing subject safety
6. Statement that subjects will be informed of new findings that may relate to their willingness to take part
7. Number of subjects

---

---

---

---

---

---

---

---

### Additional Elements

8. Probability of random assignment
9. Funding statement
10. Conflict of Interest statement
11. Other additional elements that may be required by state/local law
  - HIV Testing
  - Genetic Testing

**\*\*See templates on RSRB website for standard/sample language for required & additional elements.\*\***

---

---

---

---

---

---

---

---

### Consent Issues In Research Involving Minors

- Combination of assent (agreement) of child and permission of the parent or legal guardian
- If either refuses, the child cannot be enrolled

---

---

---

---

---

---

---

---

### Consent Issues In Research Involving Minors – Federal Requirements

- IRB shall determine that adequate provisions are made for soliciting the assent of the child
  - Age, maturity and psychological state
- IRB shall determine that adequate provisions are made for soliciting the permission of each child's parent/guardian
  - IRB may find that permission of one parent is sufficient based on risk level assigned to study

---

---

---

---

---

---

---

---

### Consent Issues In Research Involving Minors – Federal Requirements

- Risk Level
  - 46.404: Research not involving greater than minimal risk
    - Parent permission (1 parent) and assent of the child
  - 46.405: Research involving greater than minimal risk but presenting the prospect of direct benefit to the individual subjects
    - Parent permission (1 parent) and assent of the child

---

---

---

---

---

---

---

---

### Consent Issues In Research Involving Minors – Federal Requirements

- 46.406: Research involving greater than minimal risk and no prospect of direct benefit to individual subjects, but likely to yield generalizable knowledge about the subject's disorder or condition
  - Parent permission (both) and assent of the child
- 46.407: Research not otherwise approvable which present an opportunity to understand, prevent or alleviate a serious problem affecting the health or welfare of a child...("All other research")
  - Parent permission (both) and assent of the child
  - FEDERAL APPROVAL



UNIVERSITY OF ROCHESTER

---

---

---

---

---

---


---

---

### Consent Issues In Research Involving Minors – Federal Requirements

406 & 407 -

Both parents must give permission unless one parent is deceased, unknown, incompetent, or not reasonably available, or when only one parent has legal responsibility for the care and custody of the child



UNIVERSITY OF ROCHESTER

---

---

---

---

---


---

---

---

### Consent Issues In Research Involving Minors – UR Guidelines

Subject Age Range	Document Type(s)	Notes
7 and under	Parent Permission	No assent script or form required
8-12 year olds	Parent Permission & Assent Script	<ul style="list-style-type: none"> <li>•Age-appropriate</li> <li>•Verbal</li> <li>•Permits subject to opt out if parent(s) opt in</li> <li>•Signature of subject not required</li> <li>•Documentation of person obtaining assent</li> </ul>
13-17 year olds	Parent Permission & Assent Form	<ul style="list-style-type: none"> <li>•Age-appropriate</li> <li>•Written</li> <li>•Permits subject to opt out if parent(s) opt in</li> <li>•Signature of subject and person obtaining assent required</li> </ul>



UNIVERSITY OF ROCHESTER

---

---

---

---

---

---

---

---

### Consent Issues In Research Involving Minors – UR Guidelines

- Assent of child may not be necessary if the RSRB determines that:
  - Capability of some or all of the children is so limited that they cannot reasonably be consulted
- OR
- The intervention or procedures involved in the research holds out a prospect of direct benefit that is important to the health or well being of the children and is available only in the context of the research

---

---

---

---

---

---

---

---

### Consent Issues In Research Involving Adult Subjects with Decisional Impairment

RSRB accepts consent to research given by an authorized representative for:

- 1) Minimal risk studies
  - 2) Research that poses greater than minimal risk but offers a possibility of direct benefit
  - 3) Research involving slightly greater than minimal risk and offers a possibility of benefit to the class of subjects
- \*\* Appendix 1 – Investigator Guidance

---

---

---

---

---

---

---

---

### Alterations of the Consent Process

- Verbal Consent
  - script required
  - details document by person obtaining consent
- Information Letters
- Consent through Oral Presentation and Short Written Form
  - Non-English speaking subjects
  - Includes attestation, signature line and date for witness
- Deception Studies → consent to procedures & consent to data use

---

---

---

---

---

---

---

---

## Recruitment



Cartoonist: Don Mayne ([www.researchcartoons.com](http://www.researchcartoons.com))

---

---

---

---

---

---

---

---

## Recruitment

- Direct advertising considered part of the informed consent process
- Includes: websites, newspaper ads, radio ads, TV ads, flyers, brochures, telephone scripts, recruitment letters
- Must be reviewed by the RSRB
  - Coercive?
  - Imply favorable outcome?
  - Benefits beyond what is outlined in the consent & protocol?
- Initial contact from treatment team
  - No "cold calls"

---

---

---

---

---

---

---

---

## Writing Consent Documents

- Must be understandable to the subject population
- Use lay terms
- Information must be consistent with the study protocol and RSRB application
- Write as if you were talking to the subject
  - "You will be asked to..."
- Check to make sure items are in a logical order (start at the beginning; end at the end)
- Use consistent terminology throughout (drug names/abbreviations)
- Use subheadings, white space, bullets to improve readability

---

---

---

---

---

---

---

---

## Writing Consent Documents

- Use pictures, graphics or tables to help clarify procedures
- Use lists, tables, charts to show complex schedules
- Use at least a 12 point font
- Aim for nothing higher than an 8<sup>th</sup> grade reading level
- Keep words to 3 syllables or less
- Don't use "etc"
- HINT: Work off of a previously approved consent for a similar study

---

---

---

---

---

---

---

---

## Consent Process



Cartoonist: Don Mayne ([www.researchcartoons.com](http://www.researchcartoons.com))

→ Recruitment, presentation & provision of additional information

**\*\* THE PAPER IS NOT THE PROCESS\*\***

---

---

---

---

---

---

---

---

## Consent Process

- Follow your protocol
  - Who, What, Where, When & How?
- Minimize undue influence, seek consent:
  - In a private setting
  - In advance of the procedure
  - With personal "advisors"
- Don't rush the process
- Consider vulnerable populations
- Use additional aides – videotapes, brochures, etc.
- Answer questions & ask open-ended questions
- Provide sufficient opportunity to consider participating
- Ongoing process → before, during & after

---

---

---

---

---

---

---

---

## RSRB Expectations

- University's expectations regarding the consent process are outlined in the RSRB approval letters
  - Comply with the protocol approved by the RSRB
  - Only consents bearing the RSRB watermark may be used
  - Only the most recently approved version of the consent (or recruitment document) may be used
  - Consent forms/recruitment letters must include department letterhead
  - PIs are responsible for maintaining signed consent forms for 3 years after the research is completed (or longer if required by FDA, sponsor, etc.)
- Expectations the same regardless of risk involved in the study

---

---

---

---

---

---

---

---

---

---

## Documentation of Consent

- Make sure you're using the correct document
  - Consent or Permission; Written Assent or Verbal Assent
  - Control/Experimental Consent
- Signature/Date required from the subject and the person obtaining consent
  - Generally speaking the dates should be the same. If they aren't, document why
- Anyone obtaining consent needs to be listed on the application as personnel
  - Sections 1.5-1.7 or 85.1

---

---

---

---

---

---

---

---

---

---

## Documentation of Consent

- Witness = person unaffiliated with the research
- Make sure any checkboxes are completed
- DON'T sign or date the consent for the subject
- DON'T white out, cross out or otherwise change any part of the approved consent form → Any revisions must be submitted to the RSRB as an amendment and approved prior to implementation

---

---

---

---

---

---

---

---

---

---

### Documentation of Consent

- Make sure to provide the subject with a signed copy of the entire consent
- Keep the original of the entire consent, not just the signature page
- Document the process in the progress note/case history
  - Who? What? When?

---

---

---

---

---

---

---

---

### Using the Current, RSRB Watermarked Consent

- Only consent the University recognizes as valid
- Each page is watermarked
- Each time the consent is amended, a new watermark is applied
- Each time the study is re-approved, a new watermark is applied

---

---

---

---

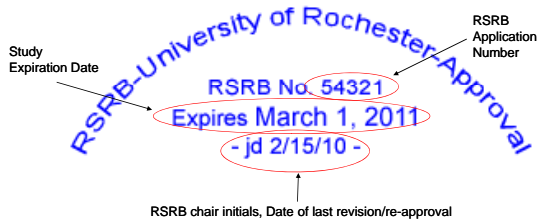
---

---

---

---

### The Watermark



---

---

---

---

---

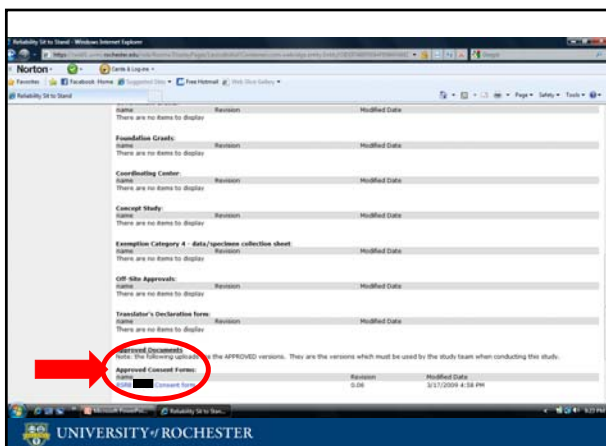
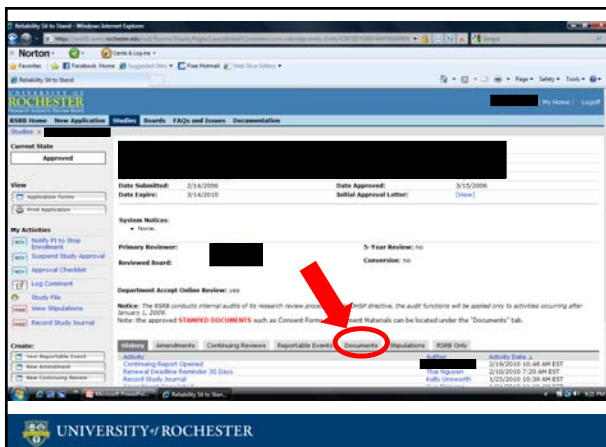
---

---

---

## Finding Watermarked Documents in ROSS

- Study homepage → “Documents” tab (horizontal toolbar)
- DON'T use the consent form found in the application (it's not watermarked)



### Need for Re-consent

- Study participation is ongoing and
  - Subject reaches age 18
  - Subject regains competency
- New study information
  - Substantial Amendments
    - Changes in study procedures
    - Changes in risk
    - Changes in subject payment

---

---

---

---

---

---

---

---

### Consent Storage

Signed Consents:

- Designate a specific area for all original copies of signed consents for a study
  - Store in chronological order
  - Be consistent with how/where you store
- Link to subject number?
- Departmental custody
- Maintain for at least 3 years after complete

Approved Documents:

- Maintain a copy of all approved consent documents in regulatory file

---

---

---

---

---

---

---

---

### RSRB Review of Consent during Continuing Reviews

- Submit a copy of the consent signed by the last subject enrolled (all pages)
- If the study has more than 1 approved consent/permission/assent, submit a copy of the last signed form for **each** type of consent document
- Block out the name & signature of the subject to maintain confidentiality but not the date of consent

---

---

---

---

---

---

---

---

### RSRB Review of Consent during Continuing Reviews

**SIGNATURES/DATES**  
I have read (or have had read to me) the contents of this consent form and have been encouraged to ask questions. I have received answers to my questions. I give my consent to participate in this study. I have received (or will receive) a signed copy of this form for my records and future reference.

Study subject: \_\_\_\_\_ PRINT NAME  
Study subject: \_\_\_\_\_ SIGNATURE *[Signature]* DATE *4-29-08*

**Person Obtaining Consent**  
I have read this form to the subject and/or the subject has read this form. I have provided the subject with a signed copy of the form. An explanation of the research was given and questions from the subject were solicited and answered to the subject's satisfaction. In my judgment, the subject has demonstrated comprehension of the information.

*Keely Wainward - Health Project Coord.* PRINT NAME AND TITLE  
*[Signature]* SIGNATURE DATE *4/29/08*

---

---

---

---

---

---

---

---

---

---

### RSRB Review of Consent during Continuing Reviews

- RSRB will review the following:
  - Signatures & dates provided
  - Person obtaining consent was approved by the RSRB
  - Entire, correct version was used
  - Each page has current watermark
  - First page is on letterhead

---

---

---

---

---

---

---

---

---

---

### Mistakes Happen...



---

---

---

---

---

---

---

---

---

---

## Most Common Findings

- Incorrect Form
  - No letterhead, no watermark
  - Expired or not current form
- Study procedures prior to consent
- Consent by staff w/o research training &/or who have not been approved by RSRB
- Cross outs/Additions on consent document

---

---

---

---

---

---

---

---

## How do we fix it?

- Reportable Event via ROSS as non-compliance (type 8); Question 5.8 on Progress Report
- Call your RSRB Specialist
- Possible Fixes
  - Re-consent
    - Current version of the document
    - Person obtaining consent does not have to be the one to re-consent
    - Use current date
  - Note to File...Reporting still required
  - Exclude data

---

---

---

---

---

---

---

---

## Invalid Consent Forms

- Failure to adhere to federal regulations and University policy = failure to obtain a legally effective informed consent
- May be considered serious non-compliance under federal regulations and repeated failures may be considered continuing non-compliance
  - Reported to federal agencies

---

---

---

---

---

---

---

---

## Preventative Action Measures

- Incorporate electronic letterhead on consent forms submitted to RSRB
- Name only PI on consent heading
- Leave out witness signatures & subject initials on each page

---

---

---

---

---

---

---

---

## Preventative Action Measures

- Have a process for:
  - Maintaining the current approved consent
    - store on shared network drive
    - keep a current file in the clinic
    - designate a consent “gatekeeper”
    - DESTROY OUTDATED COPIES
  - Ensuring the signature page is completed
  - Providing subjects with a signed copy

---

---

---

---

---

---

---

---

## Additional Resources

- RSRB Website: [www.rochester.edu/rsrb](http://www.rochester.edu/rsrb)
  - Investigator Guidance
  - Consent Templates
- Glossary of Lay Terms:  
<http://www.rochester.edu/rsrb/documents/pdf/layterms.pdf>
- Miner Library - Health Literacy Toolkit:  
[http://www.urmc.rochester.edu/hslt/miner/selected\\_topics/HealthLiteracyToolkit.cfm](http://www.urmc.rochester.edu/hslt/miner/selected_topics/HealthLiteracyToolkit.cfm)
- CTSI Research Subject Advocacy Program (Nancy Needler):  
<http://www.urmc.rochester.edu/ctsi/research/regulatory-support/rsa-program.cfm>

---

---

---

---

---


---

---

---

### Additional Resources

- OHRP Informed Consent Guidance:  
<http://www.hhs.gov/ohrp/policy/consent/index.html>
- OHRP Video – General IC Requirements:  
<http://www.youtube.com/watch?v=URo4x4pv68A&p=5965CB14C2506914>
- FDA – A Guide to Informed Consent:  
<http://www.fda.gov/RegulatoryInformation/Guidances/ucm126431.htm>



UNIVERSITY OF ROCHESTER

---

---

---

---

---


---

---

---

### Contact Information

- Board 1: Tiffany Gommel (x65537); Linda Palm-Montalbano (x34578)
- Board 2: Kathleen Buckwell (x57446)
- Board 3: Igor Milosevic (x32117)
- Board 4: Michelle Giglio (x34576)
- Board 5: Kelly Unsworth (x63856)
- Exempt: Victoria Jakushokas (x65544)
- RSRB Main Line (x52388)



UNIVERSITY OF ROCHESTER

---

---

---

---

---

---

---

---

### Questions?



UNIVERSITY OF ROCHESTER

---

---

---

---

---

---

---

---