DHA Human Research Protection Program

Issue: Human Subject Research versus Quality Improvement Activity

The Department of Health and Human Services (HHS) has published guidance on the distinction between Human Subject Research and Quality Improvement Activities. A significant advantage to having an endeavor meet the definition of Quality Improvement is that these activities, generally speaking, do not need to be reviewed by an Institutional Review Board (IRB) and they are not generally subject to Federal regulations concerning the protection of human subjects of research (32 CFR 219). With this paper, we will describe the characteristics that define a Quality Assurance Activity and explain the circumstances under which these activities may actually be human subject research that might require an IRB's review.

Regulatory Definitions: "Human Subject" and "Research"

The definitions of "human subject" and "research" are found in 32 CFR 219.102. All activities that meet these Regulatory definitions must comply with human research protection regulations; however, they might be exempt from IRB review in accordance with 32 CFR 219.101 (see Information Paper on Exempt Research).

Research: (32 CFR 219.102(d)) *Research* means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

Human Subject: (32 CFR 219.102(f)) *Human subject* means a living individual about whom an investigator (whether professional or student) conducting research obtains

1. Data through intervention or interaction with the individual, or
2. Identifiable private information.

Activities that utilize purely de-identified data do not meet the regulatory definition of human subject research. This does not include research in which identifiable data are received and subsequently stripped of identifiers. Since the investigative team had identifiable data, the activity is human subject research; however, it might meet the criteria for exemption from IRB review as noted previously.

There are key differences between the Common Rule (32 CFR 219) and the Health Insurance Portability and Accountability Act (HIPAA) with respect to 1) human subject and 2) de-identification of data. The Common Rule only considers living individuals to be "human subjects;" whereas, HIPAA includes decedents as "human subjects." As for de-identification of data, the Common Rule provides significant latitude for interpretation. It states that data are de-identified if "the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects." Consequently, if a dataset includes enough demographic identifiers that it substantially reduces the population of possible individuals, then it might not be de-identified.

HIPAA offers two solutions to de-identifying data: 1) the safe-harbor method involves stripping datasets of specific data elements or 2) removal of identifiers to the extent that a statistician concludes that the data cannot be reasonably re-associated with any particular individual. Seek to meet the HIPAA standards.

Do Quality Improvement Activities Require IRB Review?

Some QI activities are designed to answer a research question in addition to improve the quality of care or healthcare delivery. If this is the case, then the activity might well be a research protocol that is subject to the Common Rule regulations. You should consult with the DHA Human Research Protection Program Office personnel during the design phase of such activities in order to avoid inadvertent noncompliance with Common Rule or DoD policy provisions.

HHS has provided guidance on whether a specific QI activity will be subject to the Common Rule regulations, and the DHA HRPP follows these guidelines. Essentially, these basic questions in a decision tree must be answered by the investigators (with assistance from the HRPP if necessary):

1. Does the activity involve *research* (32 CFR 219.102(d)) if "Yes" → 2.
2. Does the research activity involve *human subjects* (32 CFR 219.102(f)) if "Yes" → Seek HRPP or IRB review.

The DHA HRPP can assist investigators with answering these questions and, if necessary, assembling a package for review by an IRB.

Do Quality Improvement Activities Require DHA HRPP Review?

Because of the interrelationship between the DHA HRPP and other programs within DHA, a DHA HRPP review might be required. Most notably, the DHA Data Sharing Program requires our review as a prerequisite for approval of a Data Sharing Agreement. In most cases, the DHA HRPP review is quick and, if truly a QI Activity, usually results in the activity being deemed not human subject research.

It is important to note that it is not advisable to use the term "research" in a protocol, presentation or publication manuscript associated with a QI activity. Being aware of this recommendation up front will also facilitate getting through the Data Sharing Agreement process without the need to have your protocol subjected to a HRPP review. **Note: this is not a "tip" to circumvent a required review. If an activity is truly human subject research, then it must be reviewed for compliance with the Common Rule.**

An important note that relates to a good deal of the activities engaged in within the DoD is that the source of funding often dictates that an activity be considered "research," and, as such, will require an IRB review. Furthermore, given the scale of the DHA-managed databases, and that the demographics of our beneficiary pool are representative of the U.S. population, the results of many activities may translate to the population as a whole and be "generalizable" knowledge.

As with the initial determination of an activity as a QI rather than human subject research endeavor, you should consult with the DHA HRPP Office personnel during the design phase to ensure compliance.

Resources

HHS Office for Human Research Protection: http://www.hhs.gov/ohrp/
DHA Human Research Protection Program: http://www.tricare.mil/tma/privacy/hrpp
DHA Privacy and Civil Liberties Office: http://tricare.mil/tma/privacy
32 CFR 219: http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title32/32cfr219_main_02.tpl
DoD Instruction on HRPP: http://www.dtic.mil/whs/directives/corres/pdf/321602p.pdf

Distinction: Human Subject Research – vs. – Quality Improvement

Assessed Element	Human Subject Research	Quality Improvement
Intent	☐ contribute to "generalizable" knowledge	☐ improve a program or service or ensure it conforms with expected norms
Design	☐ develop or contribute to "generalizable" knowledge, may involve randomization of individuals to different treatment regimens or processes. This is frequently the case in DHA supported research given the scale of the beneficiary pool and the results leading to generalizable knowledge	☐ not intended to develop or contribute to "generalizable" knowledge, does not involve randomization of individuals, but may involve comparison of variations in programs
Effect on Program or Practice Evaluated	☐ it is not the specific intent that findings of the activity will directly affect institutional or programmatic practice; however, they may influence future policies	☐ findings of the activity are expected to directly affect institutional practice and may identify corrective action(s) needed
Population	☐ usually involves a subset of individuals; generally, statistical justification for sample size is used to ensure endpoints are met	☐ includes all or most receiving a particular treatment or process; exclusion of information from some individuals significantly affects conclusions
Benefits	☐ participants may or may not benefit directly; benefit, if any, to individuals incidental or delayed	☐ participants are expected to benefit directly from the activities
Dissemination of Results	☐ the intent to publish or present the findings is generally presumed at the outset; dissemination of information usually occurs in research/scientific publications or other research/scientific fora; results expected to develop or contribute to "generalizable" knowledge	☐ the intent to publish or present is generally NOT presumed at the outset; dissemination of information does not occur beyond the institution evaluated; dissemination of information may occur in quality improvement publications; when published or presented to a wider audience, the intent is to suggest potentially effective models, strategies, assessment tools or provide benchmarks or base rates rather than to develop or contribute to "generalizable" knowledge