Marshfield Clinic

Assent of Children and Parental Permission

1. SCOPE

1.1. System Wide

2. DEFINITIONS & EXPLANATIONS OF TERMS

2.1. Assent

- Active expression of willingness to take part in a research study/clinical investigation.

2.2. Child

- Individual who is less than 18 years of age.

2.3. Dissent

- Active expression of unwillingness to take part in or continue in a research study/clinical investigation.

2.4. Guardian

- Individual who is authorized under applicable state or local law to consent on behalf of a child to general medical care. In the State of Wisconsin, a guardian is appointed by a Wisconsin court to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare.

2.5. Parent

- Child's biological or adoptive parent.

2.6. Permission

- Agreement of the parents or guardians to the participation of their child in research/clinical investigation.

2.7. Ward

- Child with a court-appointed guardian

3. RESOURCE GUIDE BODY

The purpose of this guidance is to help Marshfield Clinic Institutional Review Board (MCRF IRB) members determine when and how assent and parental/guardian permission should be required, and to provide researchers with IRB expectations regarding the assent process. Federal regulations 21 CFR 50, Subpart D and 45 CFR 46, Subpart D provide additional protections for minors involved as subjects in research. Included are requirements for permission by parents or guardians and for assent by minors (see 21 CFR 50.55 and 45 CFR 46.408). The IRB determines what children's assent and parental/guardian permission is required based on its assessment of the risks of the research and prospect of benefits to the subject. It must also determine whether and how it must be documented.

3.1. Subject to the age of assent determinations made pursuant to Section 3.5, permission from both parents is required unless one parent is deceased, unknown,

incompetent, not reasonably available, has legal responsibility for the care of the child, or the IRB determines that permission of one parent is sufficient. Also, assent from a child who is the age of assent or older are required for the same categories of research:

a. Minimal risk research

- If in the enrolling PI's clinical opinion the child is decisionally impaired and not able to provide meaningful assent, the child may not be enrolled in the research. Exceptions to this would be if the focus of the study is on the child's impairment, and the IRB application provides adequate justification for the enrollment of the decisionally impaired, or adequate justification is provided to the IRB for enrollment of the individual (e.g. prospect of direct personal benefit).

b. Greater than minimal risk research that presents the prospect of direct benefit to individual subjects, or for DHHS and FDA-regulated research, that the activity is a monitoring procedure that is likely to contribute to the subject's well-being.

- If in the enrolling investigator's clinical opinion the child is decisionally impaired and not able to provide meaningful written assent, research enrollment may rely solely on parental/guardian permission.

3.2. Permission from both parents is required for the following category of research unless one parent is deceased, unknown, incompetent, not reasonably available, has legal responsibility for the care of the child. Also assent from the child is required for that same category of research:

a. Greater than minimal risk research with no prospect of direct benefit to individual subjects, or for DHHS and FDA-regulated research, by a monitoring procedure that is not likely to contribute to the well-being of the subjects, but likely to yield to generalizable knowledge about the subject's disorder or condition.

3.3. Permission from at least one parent/guardian is required while assent of the child is not required if:

a. The research holds out a prospect of direct benefit that is important to the health or well-being of the child and is available only in the context of the research.

3.4. For non-FDA-regulated research, parental/guardian permission is not required for certain types of research:

a. The IRB may waive or alter, some or all of the elements of parental permission in the same way it may do so for informed consent as documented in 46.116 (c) and (d) of Subpart A.

b. When the IRB determines that a research protocol is designed for conditions or for a subject population for which parental or guardian permission is not a reasonable requirement (e.g. neglect or abuse of the child), it may waive the consent requirements, provided an appropriate mechanism for protecting the children who will participate as subjects in the research is substituted, and provided, further, that the waiver is not inconsistent with federal state or local law. Although parental permission is not required in this case, the need for

permission from the legal guardian and assent of the child will still be determined by the IRB.

c. Children who are wards of the state or any other institution, or entity can be included in research under 46.406 and 46.407 without guardian permission only if such research is related to their status as wards or conducted in schools, camps, hospitals, institutions, or similar settings in which the majority of children involved as subjects are not wards. The IRB shall require an advocate for each child who is a ward, in addition to any other individual acting on behalf of the child as guardian.

3.5. Determining the Age of Assent

a. The IRB shall take into account the ages, maturity, and psychological state of the children involved; this judgment may be made for all children to be involved in research under a particular protocol or for each child, as the IRB deems appropriate.

b. If the purpose of the research is therapeutic, that is, to treat an existing medical condition of a child, the IRB will operate under the assumption that the parents or guardians are making choices in the child's best interest. Choices in this situation may be very difficult, and may in fact put undue pressure on younger children who are asked to make a decision about research participation.

- For therapeutic research, the age of assent generally set by the IRB will be age 12 and older.

c. If the purpose of the research is non-therapeutic, the IRB will generally set the age of assent lower than for therapeutic research. Children should have more autonomy when deciding to take part in research, the purpose of which is other than to treat their medical condition. The IRB operates under the assumption that the parent or guardian will enroll his or her child in non-therapeutic research for altruistic reasons. However, it is understood that this will not be the case in all situations, and the IRB will take special note of financial incentives to help ensure that any incentive does not unduly influence the parent or guardian's decision about enrollment.

- For non-therapeutic research, the age of assent generally set by the IRB will be age 7 and older.

d. For children under the age of assent, the IRB will determine whether parental permission must be obtained, or whether it may be waived in accordance with 45 CFR 46.116 of Subpart A.

3.6. Obtaining Assent

a. When the IRB requires documented children's assent, the researcher will be required to submit an assent form to the IRB for review and approval. The signature of the child will be required indicating that he or she agrees to be in the study.

- This is in addition to the informed consent document that parents sign to provide permission for research participation.
- If a research sponsor provides a content and age-appropriate information sheet about a research study, the IRB may approve its use in combination

with signature of assent on the research informed consent document in lieu of a separate signed assent form.

b. When the IRB requires children's assent, but documentation of assent is waived, the study must still be explained to the child in understandable language, and a script must be approved by the IRB. However, verbal affirmation from the children is acceptable, and no signed assent form is required.

3.7. Waiver of Assent

a. Even when the IRB determines that subjects are capable of assenting, the IRB may still waive the assent requirement under the same circumstances that informed consent may be waived. In most cases this will be data-only research.

- The research involves no more than minimal risk to the subjects; and
- The waiver will not adversely affect the rights and welfare of the subjects; and
- The research could not practicably be carried out without the waiver; and
- Whenever appropriate, the subjects will be provided with additional pertinent information after participation.

b. It is possible for the IRB to require permission from parents while waiving assent. That is, obtaining permission may be practicable, while obtaining assent meets the criteria stated above.

3.8. Assent Not Required

a. The IRB shall take into account the ages, maturity, and psychological state of the children involved when determining whether assent is required; this judgment may be made for all children to be involved in research under a particular protocol or for each child, as the IRB deems appropriate.

b. In addition to the considerations in a. above, the IRB may waive the requirement for assent if 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 research context.

c. If the IRB determines that assent is not required for certain children or all children in a given study, the reason will be documented in the IRB minutes.

3.9. Dissent

a. In cases where children's assent to participate in research is required by the IRB, consideration must be given to initial, as well as subsequent, expressions of dissent. The concept of dissent and its implications for research are relevant only when assent has been required by the IRB.

b. Expressions of dissent may occur at the point of initial enrollment.

- Enrollment should not proceed.

c. Expressions of dissent may occur after the research intervention has begun.

- Children will not necessarily know whether research participation will be distressing to them until they experience it. Therefore, one cannot ask children to make only a prospective decision about participation, as this does not protect them from harm.

- At each study visit, children should be asked to affirm their continuing agreement to participate.
- Parents/guardians and researchers must attempt to recognize signs of dissent and respect the child's right to stop participation.

d. There are situations in which a child's persistent refusal to provide assent or obvious expression of dissent is immediately ethically binding.

- Non-therapeutic research.
- Research that is of absolutely no direct benefit to child/subject.

e. In cases of therapeutic research it may be more difficult to distinguish research distress from general treatment distress.

- In an effort to inform subjects and minimize risk and stress, the assent template for therapeutic research will delineate which aspects of the treatment are being done solely for research purposes from those which would be done whether the child participates in research or not. This is intended to help parents and researchers determine whether potential dissent is targeted at the research participation rather than at the treatment of an illness in general.
- When it has been determined that the subject is dissenting to research participation, the expression of dissent is ethically binding and participation must be stopped.

4. ADDITIONAL RESOURCES

4.1. References:
- None

4.2. IRB Forms documents available:
- Research Assent Form – Minor Subjects Ages 7 and Above
- Research Assent Form – Minor Subjects Ages 12 and Above

5. DOCUMENT HISTORY

Version No.	Revision Description
1.0	New Document in Document Control transferred from Policy & Handbook Library - #1811.5. (no changes made)
2.0	Added hyperlink to IRB forms: Research Assent Forms

6. DOCUMENT PROPERTIES

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