From: OC GCP Questions
To: [redacted]
Subject: Question on EMR and research records
Date: Wednesday, March 22, 2017 10:51:00 AM
Attachments: [redacted]

Good morning --

FDA regulations require sponsors of clinical investigations to select only investigators qualified by training and experience to investigate the test article (see 21 CFR §§ 312.53 and 812.43). FDA considers this to include the investigator meeting any licensing requirements of the jurisdiction where the trial takes place. The regulations further require investigators to supervise the testing (for investigations of drugs, including biological products, under 21 CFR Part 312, investigators commit themselves to personally conduct or supervise the investigation; for investigations of medical devices, under 21 CFR Part 812, investigators commit themselves to supervise all testing of the device involving human subjects). Investigators may delegate a task to individuals who are qualified to perform the task, including being appropriately licensed.

FDA's "Guidance for Industry: Investigator Responsibilities - Protecting the Rights, Safety, and Welfare of Study Subjects" (available at www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM187772.pdf), includes the following information:

The investigator should ensure that any individual to whom a task is delegated is qualified by education, training, and experience (and state licensure where relevant) to perform the delegated task. Appropriate delegation is primarily an issue for tasks considered to be clinical or medical in nature, such as evaluating study subjects to assess clinical response to an investigational therapy (e.g., global assessment scales, vital signs) or providing medical care to subjects during the course of the study. Most clinical/medical tasks require formal medical training and may also have licensing or certification requirements. Licensing requirements may vary by jurisdiction (e.g., states, countries). Investigators should take such qualifications/licensing requirements into account when considering delegation of specific tasks. In all cases, a qualified physician (or dentist) should be responsible for all trial-related medical (or dental) decisions and care.

The document further states:

The investigator is responsible for conducting studies in accordance with the protocol (see 21 CFR 312.60, Form FDA-1572, 21 CFR 812.43 and 812.100). In some cases a protocol may specify the qualifications of the individuals who are to perform certain protocol-required tasks (e.g., physician, registered nurse), in which case the protocol must be followed even if state law permits individuals with different qualifications to perform the task (see 21 CFR 312.23(a)(6) and 312.40(a)(1)). For example, if the state in which the study site is located permits a nurse practitioner or physician's assistant to perform physical examinations under the supervision of a physician, but the protocol specifies that physical examinations must be done by a physician, a physician must perform such exams.

FDA would expect anyone who is involved with essential tasks in the conduct of a clinical study to be listed as a sub-investigator on the Form FDA 1572 (the 1572). The 1572, while an FDA form, is intended to supply the study sponsor with all pertinent information about the conduct of the study at the site in question. In addition, once signed, it serves as an agreement by the clinical investigator (CI) to comply with the investigational plan and pertinent regulations. It is important that the sponsor we aware of all study staff who perform essential tasks in the conduct of the study at the site.

So you as the sponsor will have to decide if a non-clinical person can make the determinations mentioned in your email. I believe FDA may have a problem with the clinical investigator just signing

the form if he/she has not verified the information personally.

Additionally, FDA requires very few signatures - notably on the Form FDA 1572 or investigator agreement and on informed consent documents. However, a signature by the person completing a report or a review of a document is commonly considered proof the individual signing was responsible for the activity required. Study protocols often require a variety of signatures as a result and FDA would consider lack of the required signatures a protocol deviation. When it comes to monitoring activities, the SOPs of the sponsor and/or the contracted organization should spell out what is expected with regard to signatures on documents. Given the variety of communication systems available today, companies - both at the sponsor and CRO ends - should consider the variables possible and speak to them in their SOPs. If an FDA investigator reviews monitoring reports as part of a bioresearch monitoring (BIMO) inspection, he/she is mainly interested in the contents rather than a signature. In addition, FDA will not take action on findings documented in monitoring reports but the FDA investigator will need independent substantiation that the findings were accurate. However, the reports could obviously lead FDA investigators to look more closely at specific issues.

The bottom line regarding the signatures is mainly a legal issue. If the reports are not signed, the sponsor could contend they were not made by the official monitor or not what was sent to them, should a noncompliance reported therein go uncorrected. It therefore seems to be more a question to place to lawyers as to what are legitimate ways to sign a document to show authorship.

I hope this information his helpful.

Kind regards,

Doreen M. Kezer, MSN
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Office of Good Clinical Practice
Office of the Commissioner, FDA

From: [redacted]
Sent: Monday, March 20, 2017 3:01 PM
To: OC GCP Questions
Subject: Re: Question on EMR and research records

Doreen

Thank you very much. If I can comment back on a few items from your reply.

I want to confirm if the FDA or GCP see any issue with a non-clinical person, who does not have the authority to perform a toxicity assessment, confirm medical history etc, documenting and summarizing personnel information about a patient's health and eligibility if there is an accompanying physician note, and even if that

note does not reference the same information? If the MD signs the note is that satisfactory?

Also, if the note by the non-clinical staff member, is written in the EMR, but then the note is printed and signed by the MD, do you also suggest that signed version be uploaded into EMR or that it at least be signed by the MD in the EMR so that the version in EMR is not unsigned by a clinical person? While I see from your email actually recommend this be done, I wanted to confirm if you think as a sponsor we should be requiring that all notes in EMR be signed by a clinical person?

Thank you

[redacted]