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September 14, 2006

Organizers
Food and Drug Administration Public Hearing
Docket no. 20060-0331
21 CFR.50
Conduct of Emergency Clinical Research
Division of Dockets Management
HFA305 Food and Drug Administration
5630 Fisher Lane, Room 1061
Rockville, MD 20852

Dear Sir or Madam:

Accompanying this letter is an abstract for a proposed presentation at the public hearing on the conduct of emergency clinical research by the food and drug administration, docket number 20060-0331, October 11, 2006 at University Systems of Maryland Shady Grove Center, 9630 Gudelsky Dr., Rockville, MD 20850.

Sincerely,

Myron L. Weisfeldt, M.D.
William Osler Professor of Medicine
Director, Department of Medicine

20060-0331

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Abstract of Proposed Presentation For Public Hearing of Food and Drug Administration
21 CFR Part 50 [Docket No. 2006D-0331] Conduct of Emergency Clinical Research on
October 11, 2006, 8AM-6PM, University System of Maryland Shady Grove Center, 9630
Gudelsky Dr. Rockville, MD 20850

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I propose the formation of a National Consensus Advisory Panel (could be called a National IRB) for research to be conducted under an exemption from informed consent. In 1996, the U.S. Department of Health and Human Services promulgated new rules for obtaining a waiver of informed consent under 21 CFR 50.24. This regulation establishes an extraordinary high bar for each IRB approving an exemption. In the case of the most common type of research conducted under exemption, research conducted in an Emergency Medical System, this bar must be reached by each IRB in the region. "The IRB must find and document that participation in emergency research studies hold out the prospect of direct benefit to the subjects because (1) the subjects are in a life-threatening situation that necessitates intervention (2) appropriate animal and other preclinical studies support the potential for the intervention to provide a direct benefit and (3) the risks associated with the investigation are reasonable in relation to what is known about the medical condition of the potential class of subjects, the risks and benefits of standard therapy, if any, and what is known about the risks and benefits of the proposed intervention or activity."

This Panel could be constituted as an advisory to the FDA and/or to the NIH to review studies proposed for an exemption from informed consent. It would also function as a reference body that could be called on by any local IRB or government agency to render a judgment concerning a particular protocol. The review by this body could be mandatory or voluntary. The group would be constituted through a selection process for appropriate expertise. The panel would be allowed to have consultants for specialized areas of science or medical knowledge and/or expertise. Information from this Panel could be made publicly available.

In my opinion very few IRB's are equipped with experts to make the required judgments. The proposed panel appointed with government oversight for expertise and freedom from conflict of interest could aid local IRB's as well as government agencies in making these required assessments. For example, local IRB's are particularly challenged in that survival from cardiac arrest in most out-of-hospital settings is 5-10% and survival from severe traumatic injury is 40 to 60%. Therefore, in these two critically important conditions where progress is badly needed to improve outcome, the majority of patients

entered in any study will die. Since appropriately the family must be informed promptly of participation in the research, there is heightened personal and family anxiety after the usual fatal outcome. There is great concern for adverse publicity or litigation related to the adequacy of the review.

In addition, with the requirement of community input in 21 CFR 50.24, there are few guidelines as to how to respond to a minority of the public who may have strong objections. The Panel could provide expert and unbiased answers. At the end of failed studies we have already seen major public outcry against research conducted under an exemption and against the sponsors of such studies and the approval process. Reassurance to the public, I believe, would be aided by a National Consensus Advisory Panel.