Veterans Health Administration
Research & Development
Improving Veterans' Lives — www.research.va.gov

VHA Handbook 1200.05

October 15, 2010 Version
Guidance

11/01/10

VA PRIDE
Program for Research Integrity Development & Education

VHA Handbook 1200.05
VHA Office of Research & Development (ORD)

- ORD is responsible for
  - 1200.05 content
  - Interpreting 1200.05
  - Answering questions about 1200.05
    - Email address for unencrypted questions VHACO120005Q@va.gov

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VHA Handbook 1200.05 Purpose of This Guidance

- Cover some (not all) new content
- Point out issues that have created confusion in the past
- Ensure 1200.05 is interpreted consistently
- Answer questions

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VHA Handbook 1200.05
What to Expect

- October 15, 2010 version of 1200.05 is longer
  - Includes more content (e.g., Training, International, Children)
  - More explanations and notes
  - More Paragraphs
  - More definitions
  - More regulatory citations
- No appendices

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VA Facility Director* Responsibilities General Responsibilities, Paragraph 5

- Signs Federalwide Assurance (FWA)
- Establishes IRB of record
- Fosters institutional culture that supports the ethical conduct of all research
- Ensures adequate resources for local HRPP
- Ensures the IRB functions independently
- Is available to all IRB members
- Ensures subject outreach

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The VA Facility Director = The Institutional Official (IO)

VA Facility Director Responsibilities Paragraphs 6-8

- Responsibilities based on when the IRB of record is:
  - VA facility's internal IRB (Paragraph 6)
  - External IRB such as another VA's or affiliate's (Paragraph 7)
  - VA Central IRB (Paragraph 8)

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Investigator Responsibilities Paragraph 9

- New Paragraph, but few new requirements
- Purpose – to help investigators understand their responsibilities for VA human research

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Investigator Responsibilities Paragraph 9

- Upholding professional and ethical standards and practices
- Adhering to applicable VA and Federal requirements
- Disclosing conflict of interest
- Ensuring adequacy of resources

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Investigator Responsibilities Paragraph 9

- Overseeing the research team
- Obtaining all relevant approvals in writing before starting the study (see VHA Handbook 1200.01)
- Implementing the protocol as approved
- **Documenting** how the protocol is being implemented

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Investigator Responsibilities Paragraph 9

- Informed Consent
  - Must use the most recent IRB-approved version of Informed Consent Form (10-1086)
- Ensure consistency among
  - Informed Consent Form
  - Protocol
  - HIPAA authorization

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Investigator Responsibilities Paragraph 9

- Ensure potential subjects receive "Volunteering in Research" brochure
- Initial contact of subject must be in person or by letter
  - Initial contact can never be by phone
- Never ask for social security numbers (SSN) over the phone

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Investigator Responsibilities Paragraph 9

- Maintain a **master list of subjects** after informed consent has been obtained, unless this requirement has been waived by the IRB (Subparagraph 9u)

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Research Protocol
Paragraph 10

- Differentiate usual care from research activity 

- Provide privacy and confidentiality section 

- Provide information security plan 

- Provide for reuse of data 

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IRB Composition
Paragraph 12

- Individuals who **cannot** serve as IRB members (**voting or nonvoting**)
  - Facility Director & Director's administrative staff
  - Chief of Staff
  - Other local leadership (e.g., Quadrad members, Chief Nurse Executive)
  - Research Compliance Officers
  - Nonprofit directors or staff

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IRB Composition
Paragraph 12

- Individuals who **may** serve as **ex officio, nonvoting*** IRB members
  - VA facility research office staff
    - ACOS for R&D
    - AO for R&D
    - IRB administrative staff
  - Privacy Officer
  - Information Security Officer

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* In 1200.05, “ex officio” = “nonvoting”

Review and Approval of Research Paragraph 15

- IRB considerations for each project*

  1. Is the project research?
  2. If yes, does the research involve human subjects?
  3. If yes, the IRB must determine if the human research project is exempt from IRB review

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*The considerations should be addressed in this order

Review and Approval of Research Paragraph 15

- If the research involves human subjects but does not meet the criteria for exemption, the IRB must review the project by the convened IRB or expedited review process

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Exempt Research Paragraph 16

- The Common Rule lists categories of research that are exempt (38 CFR 16.101(b))
- The IRB must grant the exemption (the investigator cannot make the determination)

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Exempt Research Paragraph 16

- The IRB Chair or designated IRB member reviews and documents the exemption by
  - Identifying specific exemption category(ies)
  - Signing off

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IRB Approval Criteria
Safety Monitoring, Paragraph 17e

- IRB must determine if the research plan is adequate for monitoring data to ensure the safety of the subjects
- Data Monitoring Committee (DMC) and a plan for reporting to IRB and sponsor may be required by VA or the Department of Health & Human Services (HHS)
- The IRB may suggest a DMC

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Continuing Review
Paragraph 22

- Continuing review **must** occur not less than once per year
- The IRB may review within 30 days **prior to** expiration and still retain anniversary date

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Continuing Review
Expiration of IRB Approval, Paragraph 22g

- **No grace period to extend conduct of research beyond the expiration date**
- If approval expires
  - Stop all research activities
  - Immediately submit to IRB Chair a list of subjects who could be harmed by stopping study procedures

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IRB Approval Date
Paragraph 24

- The date of IRB approval of a study is used to determine when continuing review must be performed
  - Convened IRB review and approval
  - Convened IRB review and approval with minor conditions
  - Convened IRB review with substantive conditions
  - Expedited review

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IRB Minutes
Paragraph 28

- Sufficient detail to document
  - Safeguards to protect vulnerable subjects (see Paragraphs 45-49)
  - Statements of significant new findings
  - Justification for including non-Veteran subjects
  - Security measures to protect SSNs

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General Requirements for Informed Consent, Paragraph 30

- A Legally Authorized Representative may not always qualify as a “personal representative” to sign a HIPAA authorization (see Paragraph 36)

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General Requirements for Informed Consent, Paragraph 30

- If someone other than the investigator conducts the consent process, the investigator must **prospectively** designate **in writing** in the protocol or application to the IRB, the individual who will have this responsibility

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Additional Elements of Informed Consent Subparagraph 32b

- VA-specific requirements include (if relevant)
  - Future use of specimens or data 

  - Re-contacting subjects for future studies 

  - Disclosure of study results 

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Documentation Informed Consent Paragraph 33

- VA Form **10-1086** must be used for all VA approved research
  - **Except** DoD studies with active duty military personnel when no VA-specific language is necessary (Paragraph 33a)

- Must use the most recent IRB-approved version of informed consent form

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Documentation Informed Consent Paragraph 33

- Signature blocks are required for the subject and the person obtaining the consent
  - Signature **and**
  - Date
- A **witness is not required** to sign an informed consent form **unless**
  - The IRB requires a witness signature
  - A short form is employed*

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* A witness is **always** required for a short form

Waiver of Informed Consent Paragraph 35

- IRB may approve a consent procedure that
  - Does not include all the elements, or
  - Alters some or all elements, or
  - Waives the requirement for obtaining informed consent
- The IRB **must document** the criteria it used for granting the waiver (38 CFR 16.116(c))

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Surrogate Consent Paragraph 36

- Legally Authorized Representative (LAR) is an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participation in the procedure(s) involved in the research. A LAR may be*
  - Health care agent
  - Legal or special guardian
  - Next of kin in this order: spouse, child, parent, sibling, grandparent, grandchild, or
  - A **close friend** 

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* In this order

Surrogate Consent Paragraph 36

- A personal representative is a person who, under applicable law, has authority to act on behalf of the individual. This may include power of attorney, legal guardianship of an individual, the executor of an estate of a decease individual, or someone under Federal, state, local or tribal law with such authority (e.g., the parent of a minor) (VHA Handbook 1605.1 (HIPAA & Privacy Act))

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Surrogate Consent Paragraph 36

- **If feasible,** the investigator must explain the research to the prospective subject
- Some individuals may resist participating in research (i.e., dissent)
  - **Under no circumstances** can anyone be forced to participate in a research study even if a LAR has provided consent

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Surrogate Consent Paragraph 36

- If decision-making capacity fluctuates, it may be necessary to re-consent some subjects

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HIPAA Authorization Paragraph 37

- HIPAA Authorization must be a **standalone** document 

- IRB does not have authority to **approve** a HIPAA Authorization (just to **waive** it)
- Privacy Officer reviews HIPAA Authorization to verify it meets requirements

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Waiver of HIPAA Authorization Paragraph 37

- IRB can approve a **waiver** of HIPAA Authorization
- IRB must document approval of the waiver
- IRB must document its determinations

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Privacy Officer & Information Security Officer (ISO) Responsibilities, Paragraph 38

- Complete review and inform IRB of findings in a timeframe that does not delay the approval process
- Make recommendations to investigators
- Follow up with investigators
- Provide summary reports
  - **Convened** IRB - Prior to or at the meeting
  - **Expedited** Review - Prior to IRB approval
  - **Exempt** Studies – To ACOS/R&D

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Privacy Officer & Information Security Officer (ISO) Responsibilities, Paragraph 38

October 18, 2010

A workgroup, comprised of Research, Information Security and Privacy specialists, has developed a **checklist** that facilities will be encouraged to use. The checklist may be used as a guide for the PI to document compliance with privacy and information security requirements and will also serve to facilitate the review by the PO and ISO. The checklist is close to completion and will be distributed in the near future.

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Investigational *Drugs & Devices* Paragraphs 39 & 40

- Investigators and IRBs must follow **both** FDA regulations and VA requirements

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Investigational *Drugs* Paragraph 39

- Investigators and their facilities must follow Handbook 1108.04 “Investigational Drugs and Supplies”
  - Provide the Pharmacy Service &/or Research Investigational Pharmacy information on each subject, and
  - VA Form 10-9012
  - VA Form 10-1223 is no longer required

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Investigational *Devices* Paragraph 40

- IRB must categorize each device as either significant risk (SR) or non-significant risk (NSR)
  - If SR, the investigator must give the IRB a copy of the FDA's approval
  - If NSR, the IRB makes the determination
    - Documents determination in IRB minutes
- Humanitarian Use Device

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Serious Adverse Events (SAEs) Paragraph 42

- Investigators must report all internal or local* unanticipated SAEs to the IRB in accordance with **VHA Handbook 1058.01**
  - IRB determines if the event is
    - Serious
    - Anticipated or unanticipated
    - Related, possibly related, or probably related
  - IRB determines and documents whether any action is warranted

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* In 1200.05 an “internal” SAE = a “local” SAE

VHA Health Record Paragraph 43

- VHA health record must be created or updated, and a progress note created if
  - Subjects are admitted and/or treated at VA
  - Research procedures and/or interventions used in the medical care at a VA (or contracted facility)
  - Clinical resources are used (e.g., labs)
  - Research involves interventions that may lead to adverse events

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Flagging a VHA Health Record Paragraph 44

- IRB may require flagging to protect subjects' safety
- Contents of the flagged record
- Duration of flagging

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Flagging a VHA Health Record Paragraph 44

- Flagging is **mandatory** if research involves
  - Invasive procedures
  - Interventions or clinical services used in the medical care of the subject or that could interfere with the subject's other medical care
  - Surveys that could provoke undue stress or anxiety*

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*Unless IRB determines it is not in subject's best interests

Vulnerable Subjects
Paragraphs 45-49

- Requirements for **categorically** vulnerable subjects:
  - Pregnant Women, Prisoners, Children
  - Persons who lack decision-making capacity
- Research on fetus, fetal tissue, neonates, or in vitro fertilization is **not permitted** at VA

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Vulnerable Subjects
Paragraphs 45-49

- If VA requirements are more stringent than HHS, then VA requirements must be met
- IRB should **document**
  - Why subjects are vulnerable **and**
  - That adequate safeguards are in place
- CRADO Waivers may be required

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Decision-making Capacity
Paragraph 49

- Individual is presumed to have decision-making capacity **unless**
  - Documented by a qualified practitioner* in the medical record
  - Ruled incompetent by a court of law
- Temporary or fluctuating lack of decision-making capacity
- Regained capacity

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*May be a qualified member of the research team

Engagement in Human Subjects Research, Paragraph 50

- Generally, VA facility is "engaged"* when that VA facility's employee obtains the following for research purposes
  - Data about the subjects through intervention or interaction
  - Identifiable private information about the subjects; or
  - Informed consent from the subjects for the research

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*See OHRP Guidance October 16, 2008

Engaged in Research Paragraph 50

- If a VA Facility **is** "engaged" in research, it
  - Must hold a Federalwide Assurance (FWA)
  - Must have one of its staff members be either the Principal Investigator (PI) or a Local Site Investigator (LSI) for that study
  - Have the study approved by one of its IRBs of record and its Research & Development Committee

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Not Engaged in Research Paragraph 51

- If a VA Facility **is not** "engaged" in research, it
  - Has no jurisdiction over the study
  - Does not have to have an FWA
  - Does not have to get its IRB or Research & Development Committee approval
  - **However**, its Facility Director may determine that study cannot be conducted there

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Multi-site Studies Paragraph 52

- "Local Accountability" - each facility that is engaged is responsible for
  - Safeguarding subjects
  - Compliance with all requirements
- PI of overall VA multi-site study responsibilities
- LSI responsibilities
- Multiple IRBs vs. VA Central IRB

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Voice, Video, or Photographs for Research Purposes, Paragraph 55

- Informed Consent (VA Form 10-1086)
- Consent for Use of Picture and/or Voice (VA Form 10-3203) **only** needed when subject is a **patient**
- VA Form 10-5345 documents permission for disclosure to another individual

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International Research Paragraph 56

- Definition includes
  - International sites
  - Specimens/data from international sites
  - Sending specimens/data out of the U.S. 

- U.S. protections **and** protections defined by local authority/customs
- CRADO permission required

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Use Preparatory to Research Paragraph 57

- HIPAA Authorization/Waiver is not required
- IRB exemption not required
- Investigator cannot
  - Record individually identifiable health information
  - Contact or recruit subjects from data or information
- **Pilot studies** are studies – they are **not** "Preparatory to Research"

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Human Subjects Protection Training Paragraph 61

- Required training must be updated every **two** years

- VA facilities must
  - Have standard operating procedures (SOPs) for training (including whether the facility uses 730 days, or the second calendar or fiscal year to determine when the next training is due)
  - Document compliance

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Human Subjects Protection Training Paragraph 61

- Training applies to
  - The entire research team **including anyone who has contact with subjects**
  - IRB members and VA representatives to external IRBs
  - R&D Committee members and any other committee or subcommittee involved with subjects

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Student/Trainee Research Paragraph 63

- Only students and trainees from **schools with academic affiliation** can
  - Serve as investigators within a VA facility or
  - Use data or human biological specimens from the VA

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Accreditation Paragraph 64

- VA facilities with Federalwide Assurances (FWAs) must achieve and maintain **Full Accreditation** of their Human Research Protection Programs (HRPPs)
  - New IRB arrangements
  - Affiliate responsibilities
  - VA facility responsibilities when affiliate is not on target to obtain accreditation
  - Maintaining HRPP accreditation

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Questions About New VHA Handbook 1200.05

- **Preferred** - Send **unencrypted** questions via e-mail to VHACO120005Q@va.gov
- If urgent and/or encrypted, please contact:
  - Kevin Nellis Kevin.Nellis@va.gov
  - Marian Serge Marian.Serge@va.gov
  - Lynn Cates Lynn.Cates@va.gov
  - Karen Jeans Charlotte.Jeans@va.gov

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QUESTIONS

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