Navigating consent issues in the collection of cord blood units

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Outline

- How is need for IRB approval determined?
- Is standard collection of a CBU research?
- Is the maternal donor involved in human subject research if:
  - CBU is distributed for transplantation on a research protocol?
  - Data about the CBU are submitted to the SCTOD?
  - CBU is distributed for laboratory research?
- Should potential research use be addressed in medical consent form?
- When would IRB approval be required?

How is Need for IRB Approval Determined?

- IRB approval required if:
  - Activity meets either OHRP or FDA definition of research and;
  - Human subjects are involved in the research

OHRP Research Definition

A systematic investigation, including research development, testing and evaluation, designed to contribute to generalizable knowledge

FDA Research Definition

- Any experiment that involves a test article and one or more human subjects, and that meets any one of the following:
  - Must meet the requirements for prior submission to the FDA under section 505(i) of the Federal Food, Drug, and Cosmetic Act meaning any use of a drug other than the use of an approved drug in the course of medical practice;
  - Must meet the requirements for prior submission to the FDA under section 520(g) of the Federal Food, Drug, and Cosmetic Act meaning any activity that evaluates the safety or effectiveness of a device; OR
  - Any activity the results of which are intended to be later submitted to, or held for inspection by, the FDA as part of an application for a research or marketing permit.

Is Collecting Cord Blood Units Research?

- Not research by OHRP definition
  - Not a systematic investigation to gain generalizable knowledge – no research questions being asked
  - Cord blood collection is standard clinical procedure
  - Primary intent is to collect CBUs for clinical transplantation
- Not research by FDA definition
  - No drug or biologic is being tested
  - Data from CBU collection not submitted to FDA for
    - BLA or;
    - Research IND

Does Collecting Cord Blood Units Require IRB Approval?

- No
  - Standard collection of CBUs is not research by OHRP or FDA definitions
  - Humans are involved but activity is not research
  - Maternal donor only provides medical consent

Are Other Activities Human Subject Research?

- *OHRP Guidance on Research Involving Coded Private Information or Biological Specimens*
  - Defines scenarios when use of coded private information or biological specimens is not considered human subject research
- Key guidance to determine if research consent is required for
  - Distributing a CBU for transplantation on a research protocol
  - Submitting data to the SCTOD
  - Distributing CBUs for laboratory research

To What Does the Guidance Apply?

- Existing private information and biological specimens
- Private information and biological specimens collected in the future for purposes other than the currently proposed research, e.g.,
  - Medical records
  - Ongoing biological specimens for a tissue repository

When is it Not Human Subject Research?

- The private information or specimens were not collected specifically for the currently proposed research project through an interaction or intervention with living individuals; and
- The investigators cannot readily ascertain the identity of the individuals to whom the coded private information or specimens pertain because there is, e.g.,
  - Key holder agreement
  - IRB-approved written policies and operating procedures
  - Other legal requirements prohibiting release of the key
- Distributors of coded data or specimens are not considered investigators

Analysis of Cord Blood Based on Guidance

- No interaction or intervention with maternal cord blood donor for specific research purposes
  - Standard collection of cord blood is not research
  - Primary intent is to list the CBU for clinical transplantation
  - Research use not known at time CBU is collected
- Data are part of the manufacturing record
- CBU and associated data are coded
- Only CBB holds key to maternal donor identity
  - Federal law prohibits release of maternal donor identity
  - Key holder agreement included in distribution documents

What Does this Mean for Cord Blood?

- In the opinion of NMDP/Be The Match these activities are not research involving human subjects
  - Distributing a CBU for transplantation on a research protocol
  - Submitting data to the SCTOD
  - Distributing CBUs for laboratory research
- IRB approval and research consent is not required
- CBBs with a local IRB should confirm this analysis with their IRB and legal department

Cord Blood Collection Consent Form

- Medical consent form for CBU collection should
  - Include statement about potential research use
  - Include statement about data being submitted to SCTOD
  - Could allow for maternal donor to opt out of lab research

Is IRB Approval Ever Required?

- IRB approval and research consent from the maternal donor may be required if:
  - Collection is novel and performed on a research protocol
  - CBU is being processed with an unapproved FDA device (IND or IDE)
  - Collection is being performed specifically to build a CBU research repository with no intent to use for clinical transplantation
- This list is not exhaustive, there may be other scenarios where IRB approval is required

Reference Documents

- OHRP research definition at 45 CRF 46.102(d)
  - http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html
- FDA research definition at 21 CFR 50.3(c)
  - http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=50.3
- OHRP Guidance on Research Involving Coded Private Information or Biological Specimens
  - http://www.hhs.gov/ohrp/policy/cdebiol.html

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