Chapter 2

Human Subject Research; Non-Research Activities; and Research Not Involving Human Subjects

This section provided information relating to when an activity is "research involving human subjects". It also describes the type of human subject research that is conducted by Prisma Health institutions.

1. DEFINITIONS FOR THE PROTECTION OF HUMAN SUBJECTS IN RESEARCH

Important Definitions for the Protection of Human Subjects in Research

1. Research

i. **Pre-2018**: DHHS regulations are 45 CFR 46.102(d) and the Common Rule define research as "a systematic investigation, including research development, testing, investigation, including research development testing, and evaluation, designed to develop or contribute to generalizable knowledge."

ii. **Post -2018:** DHHS regulations at 45 CFR 46.102(I) and the Common Rule define research (as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge") and deem the following not to be research:

1. Scholarly and journalistic (e.g., oral history, journalism, biography, literary criticism, legal research, and historical scholarship), including the collection and use of information, that focus directly on the specific individuals about whom the information is collected.
2. Public health surveillance activities, including the collection and testing of information or biospecimens, conducted, supported, requested, or authorized by a public health authority. Such activities are limited to those necessary to allow a public health authority to identify, monitor, assess, or investigate potential public health signals, onset of disease outbreaks, or conditions of public health importance (including trends, signals, risk factors, patterns in diseases, or increase in injuries from using consumer products).
3. Such activities include those associated with providing timely situational awareness and priority setting during the course of an event or crisis (including natural or man-made disasters).
4. Collection and analysis of information, biospecimens, or records by or for a criminal justice agency for activities authorized by law of or court order solely for criminal justice or criminal investigative purposes.
5. Authorized operational activities (as determined by each agency) in support of intelligence, homeland security, defense, or other national security missions.

iii. **FDA regulations** at 21 CFR 56.102(c) define clinical investigation as "any experiment that involves a test article and one or more human subjects". FDA regulations note that "the terms research, clinical research, clinical study and clinical investigation are deemed synonymous for purposes of this part." Under FDA regulations, activities are "research" when they involve:

1. Use of a drug other than the sure of an approved drug in the course of medical practice (21 CFR 312.3(b)).
2. Use of a medical device other than the use of an approved medical device in the course of medical practice in the course of medical practice (Food, Drug and Cosmetic Act §(g)(3)(i)), or
3. Gathering data that will be submitted to, or held for inspection by FDA in support of an FDA marketing permit for a food, including a dietary

supplement that bears a nutrient content claim or a health claim, an infant formula, a food or color additive, a drug for human use, a medical device for human use, a biological product for human use, or an electronic product (21 CFR 50.1(a); 21 CFR 56.101(a)).

2. Human Subject

i. Pre-2018: DHHS regulations at 45 CFR 46.120(f) and the Common Rule define human subjects as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual or (2) identifiable private information

ii. Post 2018: DHHS regulations at 45 CFR 46.102(e and the Common Rule define human subjects as "a living individual about whom an investigator (whether professional or student) conducting research

1. obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or

2. obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens.

iii. FDA regulations at 21 CFR 56.102(e) define human subject as "an individual who is or becomes a participant in research, either as a recipient of the test article or as a control. A subject may be healthy individual or a patient." If the research involves a medical device, individuals are considered "subjects" when they participate in an investigation, either as an individual or whom or whose specimen an investigational device is used or as a control (21 CFR 812.3(p)). When medical device research involves in vitro diagnostics and unidentified tissue specimens, the FDA defines the unidentified tissue as human subjects.

3. Private Information

i. **Pre 2018:** Federal Regulations at 45 CFR 46.102(f) define private information as any information that an individual can reasonably expect will not be made public, and any information about behavior that an individual can reasonably expect will not be observed or recorded.

ii. **Post 2018**: Federal Regulations at 45 CFR 46.102(e)(4). Define private information as any information about behavior that occurs in the context in which an individual can reasonably expect that no observation or recording is taking place, and information that has been provided for specific purposes by an individual and that the individual can reasonably expect will not be made public (e.g., a medical record).

4. Identifiable

i. **Pre 2018:** Federal Regulations at 45 CFR 46,102(f) define identifiable to mean that the identity of the individual subject is or may readily be ascertained by the investigator or may be associated with the information.
ii. **Post 2018**: Federal Regulations at 45 CFR 46.102(5-6) define identifiable in two manners:

1. Identifiable private information is private information for which the identity of the subjects is or may readily be ascertained by the investigator or associated with the information (45 CFR 46.102(e)(5)).

2. An identifiable biospecimen is a biospecimen for which the identity of the subject is or may readily ascertained by the investigator or associated with the biospecimen (45 CFR 46.102(e)(6)).

5. **Anonymized / Deidentified** The act of permanently and completely removing personal identifiers from data, such as converting personally identifiable information into aggregated data. Anonymized data is data that can no longer be associated with an individual in any manner.

6. **Requirement for Independent Verification that Project is Not Human Subject Research**

   All planned projects involving interaction (direct or indirect) with humans, or the use of human specimens or data should be reviewed by the IRB Office for a determination that the activity does not constitute research involving human subjects. The IRB office will issue a determination notification to the investigator. Projects should be submitted in the protocol management system as "exempt". The IRB staff will issue all determinations through the protocol management system.

7. **Clinical Research**

   Clinical research involves the evaluation of biomedical or behavioral interventions related to disease processes or normal physiological functioning. Clinical research often, but not always, includes drugs, devices or biological products regulated by the FDA. The term "clinical trials" implies treatment protocols meant for direct application to a subject population

8. **Social and Behavioral Research**

   The goal of social and behavioral research is similar to that of biomedical research to establish a body of knowledge and to evaluate interventions, however the content and procedures often differ. Social and behavioral research involving human subjects focuses on individual and group behavior, mental processes, or social constructs and usually generates data by means of surveys, interviews, observations, studies of existing records, and experimental designs involving exposure to some type of stimulus or environmental intervention.