Federal Institute for Drugs and Medical Devices

LÆGEMIDDELSTYRELSEN
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Day 1, Session 2: Informed Consent Considerations

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Outline

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- Informed Consent process
- Informed Consent signature
- Ban on waivers
- Assent of minors and incapacitated trial participants
- Emergency situations
- Public health emergencies
- Re-consent
- Withdrawal of Informed Consent by trial participant (versus decision to stop taking the investigational product)

Informed consent considerations
Volume and comprehensibility of the provided information

PRINCIPLE 2

2.1. […] potential participants should be informed about the trial **in a manner that facilitates** their **understanding**. […]

2.2 The process and information provided should be designed to achieve the primary objective of enabling potential trial participants to evaluate the benefits, risks and burden of participating in the trial and to make an informed decision on whether or not to participate in the trial. The **information provided** during the informed consent process should be **clear and concise** so as to be understandable by potential participants or legally acceptable representatives.

SECTION 2: INVESTIGATOR

2.8.1 (b) The information should be **as clear and concise as possible, use simple language and avoid unnecessary volume and complexity**. […]

Informed consent considerations
Informed Consent Process (1)

PRINCIPLE 2

2.3 The informed consent process should take into consideration **relevant aspects** of the trial, such as the **characteristics of the participants**, the **trial design**, the **anticipated benefits and risks** of medical intervention(s), the setting and context in which the trial will be conducted (e.g., trials in emergency situations), and the **potential use of technology to inform participants** (or their legally acceptable representatives) **and obtain informed consent**.

Informed consent considerations
Informed Consent Process (2)

SECTION 2: INVESTIGATOR - 2.8.1

(c) **Varied approaches** (e.g., text, images, videos and other interactive methods) may be used in the informed consent process including **for providing information** to the participant. The **characteristics of the potential trial population (e.g., participants may lack familiarity with computerised systems) and the suitability** of the method of obtaining consent should be taken into consideration when developing the informed consent materials and process. When computerised systems are used to obtain informed consent, **trial participants may be given the option to use a paper-based approach as an alternative**.

(d) Obtaining consent remotely may be considered **where appropriate**.

(e) Whether the informed consent process takes place in person or remotely, the **investigator should assure themselves of the identity of the participant (or legally acceptable representative)** in accordance with applicable regulatory requirements.

Informed consent considerations
Informed Consent Signature

SECTION 2: INVESTIGATOR - 2.8.7

Prior to trial participation, the informed consent form should be **signed and dated by the participant or** by the participant's legally acceptable representative and, where appropriate, by an impartial witness **and by the investigator or delegated investigator site staff who conducted the informed consent discussion. By signing the consent form, the investigator or delegated investigator site staff attests that the informed consent was freely given** by the participant or the participant's legally acceptable representative and **the consent information was accurately explained to and apparently understood** by the participant or the participant's legally acceptable representative.
The informed consent process **may involve a physical or an electronic signature and date** (see the glossary term "signature").

Informed consent considerations
Ban on Waivers

SECTION 2: INVESTIGATOR - 2.8.4

None of the information provided to the participant or the participant's legally acceptable representative during the informed consent process **should contain any language that causes the participant to waive or to appear to waive any legal rights, or** that releases or appears to release the investigator, the institution, the sponsor or their service providers **from liability for negligence**.

Informed consent considerations
Assent of Minors

SECTION 2: INVESTIGATOR (complementing PRINCIPLE 2, 2.1)

2.8.12 Where a minor is to be included as a participant, **age-appropriate assent information** should be **provided and discussed** with the minor as part of the consent process, and **assent from the minor** to enrol in the trial should be **obtained as appropriate**. A **process** for consent should be considered if, during the course of the trial, **the minor reaches the age of legal consent, in accordance with applicable regulatory requirements.**

See REGULATION (EU) No 536/2014, Article 32
And European guidance: Assent / Informed Consent Guidance for Paediatric Clinical Trials with Medicinal Products in Europe, Developed by Enpr-EMA's Working Group on Ethics, 25 Jan 2021
https://www.ejprarediseases.org/wp-content/uploads/2021/10/EnprEMA_informed-consent-guidance-for-paediatric-clinical-trials_2021.pdf

Informed consent considerations
Informed Consent or Assent of Incapacitated Participants

SECTION 2: INVESTIGATOR

2.8.13 When a clinical trial includes **participants who may only be enrolled in the trial with the consent of the participant's legally acceptable representative**, the participants should be informed about the trial in a manner that facilitates their understanding and, if capable, the **participant should sign and date the informed consent form or assent form as appropriate.**

See REGULATION (EU) No 536/2014, Article 31

Informed consent considerations
Emergency Situations

PRINCIPLE 2

2.4 In emergency situations […] in accordance with **applicable regulatory requirements** and the processes **approved by the institutional review board/independent ethics committee (IRB/IEC)**.

SECTION 2: INVESTIGATOR

2.8.8 In emergency situations[…] the consent of the participant's legally acceptable representative, if present, should be requested. When […] the participant's legally acceptable representative is not available, enrolment of the participant should require **measures described in the protocol and/or elsewhere, with documented approval/favourable opinion by the IRB/IEC**, to protect the participant's rights, safety and well-being and to ensure **compliance with applicable regulatory requirements**. The **participant or the participant's legally acceptable representative** should be informed about the trial **as soon as possible, and consent as appropriate should be requested.**

Informed consent considerations
Public Health Emergencies

SECTION 2: INVESTIGATOR

~~**2.8.15 of Draft Version published for Public Consultation**~~

~~In exceptional circumstances (e.g., public health emergencies), when the usual methods to obtain and document informed consent are not possible, the use of alternative measures and technologies in accordance with local IRBs/IECs and applicable regulatory requirements should be considered.~~

Deletion is in line with General Principle 8 of Declaration of Helsinki in its version from Oct 2024

"While new knowledge and interventions may be urgently needed during public health emergencies, it remains essential to uphold the ethical principles in this Declaration during such emergencies."

Informed consent considerations
Re-Consent

SECTION 2: INVESTIGATOR - 2.8.2

[…] **New information** that could impact a participant's willingness to continue participation **should be assessed to determine if re-consent is needed** (e.g., depending on the stage of the trial, consideration should be given to whether the new information is **relevant only to new participants or to existing participants**). If re-consent is needed (e.g., information on emerging safety concerns), **new information should be clearly identified in the revised informed consent materials**. Revised informed consent materials should receive the IRB/IEC's approval/favourable opinion in advance of use.

Informed consent considerations
Withdrawal of Informed Consent (1)

SECTION 2: INVESTIGATOR

2.8.10 The informed consent discussion and the informed consent materials to be provided to participants should explain the following as applicable:

(a) […]

(l) That the participant's trial participation is voluntary, and **the participant may decide to stop taking the investigational product or withdraw from the trial** at any time, without penalty or loss of benefits to which the participant is otherwise entitled;

(m) The **follow-up procedure for participants** who stopped taking the investigational product, withdrew from the trial or were discontinued from the trial;

(n) The **process by which the participant's data will be handled,** including in the event of the withdrawal or discontinuation of participation in accordance with applicable regulatory requirements;

(o) . […]

Informed consent considerations
Withdrawal of Informed Consent (2)

SECTION 2: INVESTIGATOR – 2.9.2

Although a participant is not obliged to provide a reason(s) for withdrawing prematurely from a trial, the investigator should make a reasonable effort to ascertain the reason(s), while fully respecting the participant's rights. The investigator should consider if a discussion with the participant or the participant's legally acceptable representative is appropriate. This discussion should focus on the **reasons for withdrawal to determine if there are ways to address the concerns** such that the participant could reconsider their withdrawal **without unduly influencing the participant's decision**. The investigator or delegated investigator site staff should consider explaining to the participant the value of continuing their participation to minimise trial participants withdrawal. In this process, the investigator should ensure that it does not interfere with the participant's decision to refuse or withdraw participation at any time.

Thank you very much for your attention!

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