

§ 50.56

(f) Permission by parents or guardians must be documented in accordance with and to the extent required by § 50.27.

(g) When the IRB determines that assent is required, it must also determine whether and how assent must be documented.

§ 50.56 Wards.

(a) Children who are wards of the State or any other agency, institution, or entity can be included in clinical investigations approved under § 50.53 or § 50.54 only if such clinical investigations are:

(1) Related to their status as wards; or

(2) Conducted in schools, camps, hospitals, institutions, or similar settings in which the majority of children involved as subjects are not wards.

(b) If the clinical investigation is approved under paragraph (a) of this section, the IRB must require appointment of an advocate for each child who is a ward.

(1) The advocate will serve in addition to any other individual acting on behalf of the child as guardian or in loco parentis.

(2) One individual may serve as advocate for more than one child.

(3) The advocate must be an individual who has the background and experience to act in, and agrees to act in, the best interest of the child for the duration of the child's participation in the clinical investigation.

(4) The advocate must not be associated in any way (except in the role as advocate or member of the IRB) with the clinical investigation, the investigator(s), or the guardian organization.

PART 54—FINANCIAL DISCLOSURE BY CLINICAL INVESTIGATORS

Sec.

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21 CFR Ch. I (4-1-04 Edition)

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§ 54.1 Purpose.

(a) The Food and Drug Administration (FDA) evaluates clinical studies submitted in marketing applications, required by law, for new human drugs and biological products and marketing applications and reclassification petitions for medical devices.

(b) The agency reviews data generated in these clinical studies to determine whether the applications are approvable under the statutory requirements. FDA may consider clinical studies inadequate and the data inadequate if, among other things, appropriate steps have not been taken in the design, conduct, reporting, and analysis of the studies to minimize bias. One potential source of bias in clinical studies is a financial interest of the clinical investigator in the outcome of the study because of the way payment is arranged (e.g., a royalty) or because the investigator has a proprietary interest in the product (e.g., a patent) or because the investigator has an equity interest in the sponsor of the covered study. This section and conforming regulations require an applicant whose submission relies in part on clinical data to disclose certain financial arrangements between sponsor(s) of the covered studies and the clinical investigators and certain interests of the clinical investigators in the product under study or in the sponsor of the covered studies. FDA will use this information, in conjunction with information about the design and purpose of the study, as well as information obtained through on-site inspections, in the agency's assessment of the reliability of the data.

§ 54.2 Definitions.

For the purposes of this part:

(a) *Compensation affected by the outcome of clinical studies* means compensation that could be higher for a favorable outcome than for an unfavorable outcome, such as compensation that is explicitly greater for a favorable result or compensation to the investigator in the form of an equity interest in the sponsor of a covered study or in the

form of compensation tied to sales of the product, such as a royalty interest.

(b) *Significant equity interest in the sponsor of a covered study* means any ownership interest, stock options, or other financial interest whose value cannot be readily determined through reference to public prices (generally, interests in a nonpublicly traded corporation), or any equity interest in a publicly traded corporation that exceeds \$50,000 during the time the clinical investigator is carrying out the study and for 1 year following completion of the study.

(c) *Proprietary interest in the tested product* means property or other financial interest in the product including, but not limited to, a patent, trademark, copyright or licensing agreement.

(d) *Clinical investigator* means only a listed or identified investigator or sub-investigator who is directly involved in the treatment or evaluation of research subjects. The term also includes the spouse and each dependent child of the investigator.

(e) *Covered clinical study* means any study of a drug or device in humans submitted in a marketing application or reclassification petition subject to this part that the applicant or FDA relies on to establish that the product is effective (including studies that show equivalence to an effective product) or any study in which a single investigator makes a significant contribution to the demonstration of safety. This would, in general, not include phase I tolerance studies or pharmacokinetic studies, most clinical pharmacology studies (unless they are critical to an efficacy determination), large open safety studies conducted at multiple sites, treatment protocols, and parallel track protocols. An applicant may consult with FDA as to which clinical studies constitute "covered clinical studies" for purposes of complying with financial disclosure requirements.

(f) *Significant payments of other sorts* means payments made by the sponsor of a covered study to the investigator or the institution to support activities of the investigator that have a monetary value of more than \$25,000, exclusive of the costs of conducting the clinical study or other clinical studies,

(e.g., a grant to fund ongoing research, compensation in the form of equipment or retainers for ongoing consultation or honoraria) during the time the clinical investigator is carrying out the study and for 1 year following the completion of the study.

(g) *Applicant* means the party who submits a marketing application to FDA for approval of a drug, device, or biologic product. The applicant is responsible for submitting the appropriate certification and disclosure statements required in this part.

(h) *Sponsor of the covered clinical study* means the party supporting a particular study at the time it was carried out.

[63 FR 5250, Feb. 2, 1998, as amended at 63 FR 72181, Dec. 31, 1998]

§ 54.3 Scope.

The requirements in this part apply to any applicant who submits a marketing application for a human drug, biological product, or device and who submits covered clinical studies. The applicant is responsible for making the appropriate certification or disclosure statement where the applicant either contracted with one or more clinical investigators to conduct the studies or submitted studies conducted by others not under contract to the applicant.

§ 54.4 Certification and disclosure requirements.

For purposes of this part, an applicant must submit a list of all clinical investigators who conducted covered clinical studies to determine whether the applicant's product meets FDA's marketing requirements, identifying those clinical investigators who are full-time or part-time employees of the sponsor of each covered study. The applicant must also completely and accurately disclose or certify information concerning the financial interests of a clinical investigator who is not a full-time or part-time employee of the sponsor for each covered clinical study. Clinical investigators subject to investigational new drug or investigational device exemption regulations must provide the sponsor of the study with sufficient accurate information needed to allow subsequent disclosure or certification. The applicant is required to