

§ 54.5

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submit for each clinical investigator who participates in a covered study, either a certification that none of the financial arrangements described in § 54.2 exist, or disclose the nature of those arrangements to the agency. Where the applicant acts with due diligence to obtain the information required in this section but is unable to do so, the applicant shall certify that despite the applicant's due diligence in attempting to obtain the information, the applicant was unable to obtain the information and shall include the reason.

(a) The applicant (of an application submitted under sections 505, 506, 510(k), 513, or 515 of the Federal Food, Drug, and Cosmetic Act, or section 351 of the Public Health Service Act) that relies in whole or in part on clinical studies shall submit, for each clinical investigator who participated in a covered clinical study, either a certification described in paragraph (a)(1) of this section or a disclosure statement described in paragraph (a)(3) of this section.

(1) Certification: The applicant covered by this section shall submit for all clinical investigators (as defined in § 54.2(d)), to whom the certification applies, a completed Form FDA 3454 attesting to the absence of financial interests and arrangements described in paragraph (a)(3) of this section. The form shall be dated and signed by the chief financial officer or other responsible corporate official or representative.

(2) If the certification covers less than all covered clinical data in the application, the applicant shall include in the certification a list of the studies covered by this certification.

(3) Disclosure Statement: For any clinical investigator defined in § 54.2(d) for whom the applicant does not submit the certification described in paragraph (a)(1) of this section, the applicant shall submit a completed Form FDA 3455 disclosing completely and accurately the following:

(i) Any financial arrangement entered into between the sponsor of the covered study and the clinical investigator involved in the conduct of a covered clinical trial, whereby the value of the compensation to the clinical investigator for conducting the study could

be influenced by the outcome of the study;

(ii) Any significant payments of other sorts from the sponsor of the covered study, such as a grant to fund ongoing research, compensation in the form of equipment, retainer for ongoing consultation, or honoraria;

(iii) Any proprietary interest in the tested product held by any clinical investigator involved in a study;

(iv) Any significant equity interest in the sponsor of the covered study held by any clinical investigator involved in any clinical study; and

(v) Any steps taken to minimize the potential for bias resulting from any of the disclosed arrangements, interests, or payments.

(b) The clinical investigator shall provide to the sponsor of the covered study sufficient accurate financial information to allow the sponsor to submit complete and accurate certification or disclosure statements as required in paragraph (a) of this section. The investigator shall promptly update this information if any relevant changes occur in the course of the investigation or for 1 year following completion of the study.

(c) Refusal to file application. FDA may refuse to file any marketing application described in paragraph (a) of this section that does not contain the information required by this section or a certification by the applicant that the applicant has acted with due diligence to obtain the information but was unable to do so and stating the reason.

[63 FR 5250, Feb. 2, 1998; 63 FR 35134, June 29, 1998, as amended at 64 FR 399, Jan. 5, 1999]

§ 54.5 Agency evaluation of financial interests.

(a) *Evaluation of disclosure statement.* FDA will evaluate the information disclosed under § 54.4(a)(2) about each covered clinical study in an application to determine the impact of any disclosed financial interests on the reliability of the study. FDA may consider both the size and nature of a disclosed financial interest (including the potential increase in the value of the interest if the product is approved) and steps that have been taken to minimize the potential for bias.

(b) *Effect of study design.* In assessing the potential of an investigator's financial interests to bias a study, FDA will take into account the design and purpose of the study. Study designs that utilize such approaches as multiple investigators (most of whom do not have a disclosable interest), blinding, objective endpoints, or measurement of endpoints by someone other than the investigator may adequately protect against any bias created by a disclosable financial interest.

(c) *Agency actions to ensure reliability of data.* If FDA determines that the financial interests of any clinical investigator raise a serious question about the integrity of the data, FDA will take any action it deems necessary to ensure the reliability of the data including:

(1) Initiating agency audits of the data derived from the clinical investigator in question;

(2) Requesting that the applicant submit further analyses of data, e.g., to evaluate the effect of the clinical investigator's data on overall study outcome;

(3) Requesting that the applicant conduct additional independent studies to confirm the results of the questioned study; and

(4) Refusing to treat the covered clinical study as providing data that can be the basis for an agency action.

§ 54.6 Recordkeeping and record retention.

(a) *Financial records of clinical investigators to be retained.* An applicant who has submitted a marketing application containing covered clinical studies shall keep on file certain information pertaining to the financial interests of clinical investigators who conducted studies on which the application relies and who are not full or part-time employees of the applicant, as follows:

(1) Complete records showing any financial interest or arrangement as described in § 54.4(a)(3)(i) paid to such clinical investigators by the sponsor of the covered study.

(2) Complete records showing significant payments of other sorts, as described in § 54.4(a)(3)(ii), made by the sponsor of the covered clinical study to the clinical investigator.

(3) Complete records showing any financial interests held by clinical investigators as set forth in § 54.4(a)(3)(iii) and (a)(3)(iv).

(b) *Requirements for maintenance of clinical investigators' financial records.*

(1) For any application submitted for a covered product, an applicant shall retain records as described in paragraph (a) of this section for 2 years after the date of approval of the application.

(2) The person maintaining these records shall, upon request from any properly authorized officer or employee of FDA, at reasonable times, permit such officer or employee to have access to and copy and verify these records.

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