FDA Scrutinizes Emergency Informed Consent Rule

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ROCKVILLE, MD. — The Food and Drug Administration is reviewing a decade-old regulation that allows clinical studies of emergency treatments to be conducted without obtaining informed consent in people with certain life-threatening conditions.

The FDA's reappraisal and proposed revision of the rule were prompted by concerns that current safeguards do not provide enough protection of human subjects, and by comments that the safeguards are too onerous and impede important research.

At present, a narrow exception to the informed consent requirement exists in the case of patients who cannot provide consent because of their conditions and who have no family members available to give consent.

To be exempt from informed consent, an investigation must meet certain criteria, including the following:

► The patient is in a life-threatening situation.

► The available treatments are unproven or not satisfactory.

► Evidence supports the prospect of direct benefit to the individual.

Since the regulation went into effect in October 1996, the FDA has received 56 requests to conduct emergency research under this rule. A total of 21 studies have been conducted, are being conducted, or are about to start enrollment, according to the FDA.

The FDA has issued draft guidance geared toward institutional review boards, clinical investigators, and sponsors developing and conducting emergency research. The agency also sponsored a public hearing in October on emergency research.

At that hearing, presenters offered examples of emergency research that could not otherwise have been done without the exception.

Although the current rules could be simplified, the exception to informed consent is critical, said Dr. Paul Pepe, professor of surgery, medicine, and public health, and Riggs Family Chair in emergency medicine at the University of Texas Southwestern Medical Center at Dallas.

"Studies of the automated external defibrillator are an example of the tremendous lifesaving potential of emergency treatments," he said. Such studies can also show that treatments that have been widely accepted and appear to be logical may in fact be harmful in some populations, he added. For example, intravenous fluid resuscitation was found to be harmful in certain trauma populations. If these studies had not been done, Dr. Pepe explained, many people would have died.

"Any revisions to current regulations should serve to expand the ability to perform the highest quality emergency research and to enhance patient protections through fairness, openness, and the use of all media that provide explicit detail regarding the research," Dr. Edward P. Sloan and Dr. Charles Cairns said in a statement on behalf of the American College of Emergency Physicians.

The FDA will review written comments on the guidance, as well as comments made at the hearing, to determine whether the rule should be modified. ■

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