

**Department:** UAMS Institutional Review Board  
**Policy Number:** 17.8  
**Section:** Special Populations  
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**SUBJECT: Pregnant Women, Human Fetuses and Neonates Involved in Research**

## **POLICY**

Research involving pregnant women shall be reviewed in accordance with appropriate federal regulations and best practices pertaining to this population. Any additional health concerns of the pregnant woman and the need to avoid unnecessary risk to both the pregnant woman and the fetus will be considered during the IRB's review. The UAMS IRB will also determine when the informed consent of the fetus' father to the research is required. Special attention is justified because of the involvement of a third party (the fetus) who may be affected but cannot give consent and because of the need to prevent harm or injury to the fetus. Procedural protections beyond the basic requirements for protecting human subjects are prescribed in federal regulations for research involving pregnant women.

### **Definitions**

**Dead fetus** means a fetus that exhibits neither heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles, nor pulsation of the umbilical cord.

**Delivery** means complete separation of the fetus from the woman by expulsion or extraction or any other means.

**Fetus** means the product of conception from implantation until delivery.

**Neonate** means a newborn.

**Nonviable neonate** means a neonate after delivery that, although living, is not viable.

**Pregnancy** encompasses the period of time from implantation until delivery. A woman shall be assumed to be pregnant if she exhibits any of the pertinent presumptive signs of pregnancy, such as missed menses, until the results of a pregnancy test are negative or until delivery.

**Secretary** means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom authority has been delegated.

**Viable** as it pertains to the neonate means being able, after delivery, to survive (given the benefit of available medical therapy) to the point of independently maintaining heartbeat and respiration. The Secretary may from time to time, taking into account medical advances, publish in the Federal Register guidelines to assist in determining whether a neonate is viable for purposes of this subpart. If a neonate is viable then it may be included in research only to the extent permitted in 45 CFR 56 Subparts A and D, and/or institutional policy related to human subject protections and children in research.

## **PROCEDURE**

- A. Investigators submitting studies involving pregnant women or fetuses should design their protocols, consent processes, and study activities and processes with these additional requirements in mind in addition to the standard requirements for human research.
- B. The IRB shall review research covered by this policy and applicable regulations and approve only research which satisfies the conditions of all applicable sections of this policy on pregnant women and fetuses, along with ensuring other requirements for approval are met.
- C. In addition to all other requirements for approval, the UAMS IRB will determine that:

1. Adequate consideration has been given to the manner in which potential subjects will be selected;
2. Adequate provision has been made by the investigator for monitoring the actual informed consent process [e.g., through such mechanisms, when appropriate, as participation by the IRB or subject advocates in (i) overseeing the actual process by which individual consents are secured either by approving induction of each individual into the activity or verifying, perhaps through sampling, that approved procedures for induction of individuals into the activity are being followed, and (ii) monitoring the progress of the activity and intervening as necessary through such steps as visits to the activity site and continuing evaluation to determine if any unanticipated risks have arisen].
3. No person on the research team will play any role in the determination of fetal viability.

**D. Specific considerations for the IRB in reviewing and approving research involving pregnant women or neonates** are listed below. The UAMS IRB will determine whether these conditions are met and will document its determination for all of the following:

1. Where scientifically appropriate, preclinical studies, including studies on pregnant animals, and clinical studies, including studies on nonpregnant women, have been conducted and provide data for assessing potential risks to pregnant women and fetuses;
2. The risk to the fetus is caused solely by interventions or procedures that hold out the prospect of direct benefit for the woman or the fetus; or, if there is no such prospect of benefit, the risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge which cannot be obtained by any other means;
3. Any risk is the least possible for achieving the objectives of the research;
4. If the research holds out the prospect of direct benefit to the pregnant woman, the prospect of a direct benefit both to the pregnant woman and the fetus, or no prospect of benefit for the woman nor the fetus when risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge that cannot be obtained by any other means, her consent is obtained in accord with the informed consent provisions of 45 CFR 46 Subpart A and/or relevant IRB policies pertaining to informed consent.
5. If the research holds out the prospect of direct benefit solely to the fetus then the consent of the pregnant woman and the father is obtained in accord with the informed consent provisions of 45 CFR 46 Subpart A and relevant IRB policies pertaining to informed consent, except that the father's consent need not be obtained if he is unable to consent because of unavailability, incompetence, or temporary incapacity or the pregnancy resulted from rape or incest.
6. Each individual providing consent under paragraph 4 or 5 immediately above is fully informed regarding the reasonably foreseeable impact of the research on the fetus or neonate;
7. For children as defined in 45 CFR 46.402(a) who are pregnant, assent and permission are obtained in accord with the provisions of 45 CFR 46 Subpart D; Arkansas or local laws, depending on where the research is being conducted; and relevant IRB policies pertaining to informed consent and research involving children;
8. No inducements, monetary or otherwise, will be offered to terminate a pregnancy;
9. Individuals engaged in the research will have no part in any decisions as to the timing, method, or procedures used to terminate a pregnancy;
10. Individuals engaged in the research will have no part in determining the viability of a neonate.

**E. Neonates of uncertain viability and nonviable neonates may be involved in research if all of the following conditions are met:**

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1. Where scientifically appropriate, preclinical and clinical studies have been conducted and provide data for assessing potential risks to neonates.
  2. Each individual providing consent is fully informed regarding the reasonably foreseeable impact of the research on the neonate.
  3. Individuals engaged in the research will have no part in determining the viability of a neonate.
  4. **For neonates of uncertain viability**, until it has been ascertained whether or not a neonate is viable, a neonate may not be involved in research covered by this policy unless the IRB determines that:
    - a. The research holds out the prospect of enhancing the probability of survival of the neonate to the point of viability, and any risk is the least possible for achieving that objective, OR
    - b. The purpose of the research is the development of important biomedical knowledge which cannot be obtained by other means and there will be no added risk to the neonate resulting from the research; AND
    - c. Appropriate consent is obtained. Either parent may provide consent, or, if neither parent is able to consent due to unavailability, incompetence, or temporary incapacity, consent may be obtained from either parent's legally authorized representative, as described in section 15 of the IRB policies. The consent of the father or his legally authorized representative need not be obtained if the pregnancy resulted from rape or incest.
  5. **Nonviable neonates.** After delivery nonviable neonates, may not be involved in research covered by this subpart unless all of the following additional conditions are met:
    - a. Vital functions of the neonate will not be artificially maintained;
    - b. The research will not terminate the heartbeat or respiration of the neonate;
    - c. There will be no added risk to the neonate resulting from the research;
    - d. The purpose of the research is the development of important biomedical knowledge that cannot be obtained by other means, and
    - e. Appropriate consent is obtained. For research involving nonviable neonates, both parents must provide consent; waivers or alterations of the consent process are not allowed. If either parent is unable to consent due to unavailability, incompetence, or temporary incapacity, the informed consent of one parent will suffice, except the consent of the father need not be obtained if the pregnancy resulted from rape or incest. The consent of either or both parents' LAR will not suffice to meet this informed consent requirement.
- F. Viable neonates. A neonate, after delivery, that has been determined to be viable may be included in research only to the extent permitted by and in accord with the requirements of regulations and policies pertaining to human subject research and to children in research.
- G. Research involving, after delivery, the placenta; the dead fetus; macerated fetal material; or cells, tissue, or organs excised from a dead fetus shall be conducted only in accord with any applicable federal, state or local laws regarding such activities.
1. If information associated with this material is recorded for research purposes in a manner that living individuals can be identified, directly or through identifiers linked to those individuals, those individuals are research subjects and all relevant human subject research regulations and policies apply.
- H. Research not otherwise approvable which presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health and welfare of pregnant women, fetuses, or neonates

1. The Secretary will conduct or fund, and the IRB will consider for approval, research that the IRB does not believe meets the requirements of 45 CFR 46.204 (Research Involving Pregnant Women or Fetuses) or 45 CFR 46.205 (Research Involving Neonates) only if:
  - a. The IRB finds that the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of pregnant women, fetuses, or neonates; and
  - b. The Secretary, after consultation with a panel of experts in pertinent disciplines (for example: science, medicine, ethics, law) and following opportunity for public review and comment, including a public meeting announced in the Federal Register, has determined either:
    - i. That the research in fact satisfies the conditions described at 45 CFR 46.204, as applicable; or
    - ii. The following:
      - a. The research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of pregnant women, fetuses, or neonates;
      - b. The research will be conducted in accord with sound ethical principles; and
      - c. Informed consent will be obtained in accord with the informed consent provisions of 45 CFR 46 Subpart A and other applicable subparts.
- I. **Other Studies.** Federal regulations require that, when appropriate, subjects be provided a statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable as part of the informed consent process.
  1. The IRB must judge whether a pregnant or nursing woman's participation would pose any risk to the fetus or nursing infant. In some studies, the IRB may need to ensure that non-pregnant subjects are advised to avoid pregnancy or nursing for a time during or following the research. Furthermore, where appropriate, subjects should be advised to notify the investigator immediately should they become pregnant. In some instances, there may be potential risk sufficient to justify requiring that pregnant women either be specifically excluded from the research or studied separately.

## REFERENCES

45 CFR 46 Subpart B  
AAHRPP Elements I.1.G, II.4.A, II.4.B, III.1.C, III.1.F