June 30, 2014

To:   All HSC Faculty conducting human research

From:  Richard S. Larson, MD, PhD
       Executive Vice Chancellor
       Vice Chancellor for Research

RE:   UPDATED
       Important Notice to Research Community Regarding Lapses in HRRC Approval

On June 9, 2014 an email was sent out to all HSC faculty and Click IRB users regarding actions that would be taken effective July 1, 2014 for studies which expire or lapse in HRRC approval. This communication reiterates the previous communication and has been updated to include new information. Principal Investigators (PIs) and research staff should read this memo carefully and be vigilant in monitoring study expiration dates in Click IRB to avoid the adverse consequences associate with lapsed studies.

To meet regulatory requirements and in response to our recent federal inspection, effective July 1, 2014, human research studies which lapse into expiration of Human Research Review Committee (HRRC) approval will be immediately scheduled for a compliance review by the HRRC.

Required timeframes for submitting Continuing Review or Continuing Review Closure
In order to avoid the risk of study expiration, a Continuing Review or Continuing Review/Closure submission must be submitted:

- a minimum of 45 days prior to expiration of study approval for “full” studies
- a minimum of 30 days prior to expiration of study approval for “expedited” studies

If Continuing Review or Continuing Review/Closure is not submitted to the Human Research Protections Office (HRPO) within the required timeframe, your study approval will be at risk of expiring. It is the PIs responsibility to submit the study within the required timeframe.

Notifications

1. Notifications of pending expiration:
   a. Notifications of pending expiration will be sent via Click IRB to the PI and Primary Contact at 90, 60, 45 and 30 day intervals prior to expiration. Please be vigilant and monitor your study expiration dates in Click IRB to avoid the adverse consequences associate with lapsed studies.
   b. At 30 days prior to expiration of the study, if Continuing Review or Continuing Review/Closure is not received, the PI’s dean or department chair will also be notified of the pending expiration.

2. Notification of expiration (lapse in HRRC approval):
   a. If approval of a study expires, notification will be sent to the PI and the PIs dean or department chair on the day of expiration and will include:
      i. Actions that will be taken immediately by the HRRC
ii. Actions that must be taken immediately by the PI
b. The Vice Chancellor for Research will be notified of all lapses in HRRC approval.
c. The study will be automatically scheduled for non-compliance review by the HRRC.

3. Determination of non-compliance by the HRRC:
   a. If the HRRC determines that a study expired due to the PIs failure to submit Continuing Review or Continuing Review/Closure within the required timeframe, the HRRC’s determination of non-compliance, serious non-compliance, or continuing non-compliance will be sent to the PI, the PIs dean or department chair, and the Vice Chancellor of Research. **Note:** If a PI submits their Continuing Review or Continuing Review/Closure within the required timeframe and the study lapses due to the actions of the HRRC or HRPO, the study will still undergo a compliance review by the HRRC. However, based on the circumstances, the HRRC may make a determination of non-compliance on the part of the HRRC rather than on the part of the investigator.
   b. Non-compliance of a serious or continuing nature are required to be reported to the Federal Office of Human Research Protections per 45 CFR 46.103(a), (b)(5) and may be reportable to sponsors, granting agencies, and other oversight agencies such as the FDA.
   c. The HRRC will provide UNM HSC PreAward and Contract and Grant Accounting with all determinations of serious and continuing non-compliance for prompt reporting to the funding agency. Expenditures will be analyzed to ensure unallowable charges related to the protocol are appropriately removed/refunded to the agency.

**Actions that must be taken immediately by the PI upon expiration of study approval**

1. **The PI must stop ALL research activities except as noted below**

   All research activities (including advertising, subject recruitment, enrollment, treatments, follow-up, collection of data or specimens, analysis of data or specimens that have already been collected, or use of study data) must cease when a study approval period has lapsed except in situations where discontinuation of the research would cause harm and the continuation in the research would be in the best interest of all enrolled subjects or individual participants. The HRRC may approve continuation of some or all research activities when the research interventions hold direct benefit to the subjects, when withholding those interventions poses increased risk to the subjects, or when follow up activities are important for subject safety. **New enrollment may not continue.**

   In situations where the PI determines discontinuation of the research would cause harm and the continuation in the research would be in the best interest of all enrolled subjects or individual participants:
   
   a. The PI may submit a request to continue interventions for any already enrolled research subjects for whom discontinuation of the research would cause harm and the continuation in the research would be in the best interest of all enrolled subjects or individual participants.
   
   b. In cases where there is an immediate need to address subject safety, the PI may make an initial determination (possibly in consultation with others as appropriate) to continue research activities essential to subject safety. However, the PI must as soon as possible (within 5 business days) submit a request for confirmation that the HRRC concurs with the PI’s determination. The HRRC Chair or designee (with appropriate consultation with the VA Research Office, if applicable) will determine if the subject(s) may continue in the research. This determination may be granted by the HRRC Chair through the expedited review process, by a subcommittee of the HRRC or by a full committee review. Requests to allow continued participation must be submitted as Reportable New Information (RNI). The RNI should include the following information:
      (i) Reason for requesting continuation of research activities during the lapse of approval
      (ii) A list of already enrolled subjects (de-identified) for whom discontinuation of the research would cause harm
      (iii) Identification of the specific research procedures that need to continue which are essential to subject safety
   
   c. The HRPO will notify the PI of the HRRC decision and will provide further instructions as applicable.
2. The PI must submit a Continuing Review Submission to request “Continuing Review or Closure” to avoid further non-compliance review and potential consequences of the HRRC.
   a. The HRRC must review and approve the Continuing Review submission before research may resume. Continuation of research activities without prior IRB review and approval is a violation of federal regulations [45 CFR 46.109(e) and 21 CFR 56.103(a)].
   b. If a PI does not submit a Continuing Review within 90 days of expiration, the research protocol will be permanently terminated. After that time, continuation of the research will require submission of a new protocol to the HRRC.

**Actions that will be taken by the HRRC/HRPO upon lapse of a study**

Regardless of the reasons for the lapse:
1. The HRRC/HRPO will **not** accept any new study submissions from a PI who has a lapsed protocol until the lapse has been resolved.
2. The HRRC will conduct a compliance review to determine whether there is a pattern of non-compliance, which is a reportable determination. If continuing review information is not received after the initial compliance determination, the PI will be subject to further non-compliance review by the HRRC.

**Determinations of non-compliance by the HRRC**

1. During the compliance review for a lapsed study, the HRRC will make one of the following determinations: (1) non-compliance, (2) serious non-compliance, or (3) continuing non-compliance.
2. If the HRRC determines that a study expired due to the PIs failure to submit Continuing Review or Continuing Review/Closure within the required timeframe, the HRRC’s determination of non-compliance, serious non-compliance or continuing non-compliance will be sent to the PI, the PIs dean or department chair, and the Vice Chancellor of Research.
3. If a PI submits their Continuing Review or Continuing Review/Closure within the required timeframe and the study lapses due to the actions of the HRRC or HRPO, the HRRC may make a determination of non-compliance on the part of the HRRC rather than on the part of the investigator based on the circumstances of the lapse. Non-compliance on the part of the HRRC or HRPO will be reported to the Vice Chancellor for Research.
4. As required by federal regulations, the HRPO will promptly report determinations of serious or continuing non-compliance resulting from a lapse of HRRC approval to appropriate institutional officials, the federal Office of Human Research Protections, and, if applicable the FDA or other regulatory agency with oversight of the research.
5. The HRPO will provide UNM HSC PreAward and Contract and Grant Accounting with all determinations of serious and continuing non-compliance for required reporting to the funding agency and appropriate fiscal oversight of expenditures on the grant or contract which may have occurred during the period of lapse.

**Need Help?**
The Human Research Protections Office (HRPO) has dedicated resources available to assist investigators. Please call the HRPO at 272-1129 and ask for our **IRB-on-the-Go Specialist** or email HRPO@salud.unm.edu