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Trends and Insights in IRB Warning Letters

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The number of warning letters sent to IRBs from FDA has shown a steady increase over the past five years, the majority of which have been given to institutional IRBs. In 2005, a mere four letters were sent to IRBs about violations compared to thirteen warnings letters in 2009. FDA is focusing more and more on clinical testing, site compliance, and ensuring that IRBs are following the necessary rules and regulations. The purpose of an IRB is to protect human subjects by ensuring that all regulations are followed during the clinical research process.

Some have surmised that this increasing trend of warning letters is fallout of the recent sting operation led by the GAO (Government Accountability Office) which resulted in the closing of Coast IRB. In early 2009, the GAO created a fictitious company and a fake surgical adhesive gel. While the other IRBs declined, Coast IRB of Colorado Springs, Colorado, approved the study for the fictitious adhesive gel, *Adhesiabloc*. Five months after approving the study for abdominal surgery patients, Coast learned that neither *Adhesiabloc* nor its maker, Device Med-Systems of Virginia, existed.[1] As a result of the sting operation and FDA warning letter, several high profile companies pulled their business from Coast IRB, forcing them to cease future company operations.

IRBs are under the magnifying glass now more than ever, and five themes in violations have emerged in the last eighteen months. Both independent commercial and institutional based IRBs need to understand these focus areas and ensure their policies and procedures are up to date.

Top Five Themes of IRB Violations:

1) Failure to have adequate written procedures governing the functions and operations of the IRB [21 CFR 56.108(a)(2) and 21 CFR 56.108(b)(1)(2)].

[1] Mundy, Alicia. "Sting Operation Exposes Gaps in Oversight of Human Experiments." March 26, 2009. Retrieved June 21, 2010. < http://online.wsj.com/article/SB123811179572353181.html>

2) Failure to ensure that the IRB reviews proposed research at convened meetings at which a majority of the members are present (21 CFR 56.108(c)].

3) Failure to prepare and maintain minutes of IRB meetings in sufficient detail. [21 CFR 56.115(a)(2)].

4) Failure to prepare and maintain adequate documentation of IRB activities, including a list of IRB members identified by name; earned degrees; representative capacity; indications of experience; and any employment or other relationship between each member and the institution. [21 CFR 56.115(a)(5)].

5) Failure to conduct continuing review of research at intervals appropriate to the degree of risk, but not less than once per year. [21 CFR 56.109(f) and 56.115(a)(3)].

Failure to comply with FDA regulations governing clinical trials does have consequences. IRBs will receive a letter from FDA with explicit instructions, and immediate follow up by the IRB is expected. "Within fifteen (15) working days of receiving this letter, please provide written documentation of the actions you have taken or will take to correct these violations and prevent the recurrence of similar violations. Failure to respond to this letter and take appropriate corrective action could result in FDA taking regulatory action without further notice to you.[2]" So while the number one goal is to protect the human subjects, remember to protect yourself by ensuring that every IRB meeting is documented properly. It is imperative that you document what you do, and do what is documented in your procedures. It's just like anything in life, you must do the small things right to be successful.

So What Now?

- Train your people
- Implement constant ongoing training
- Maintain up to date information
- Carefully document all activities
- Take good meeting minutes
- Have an active board roster
- Know who is in attendance at meetings
- If something changes, document it

[2] Inspections, Compliance, Enforcements, and Criminal Investigations: U.S. Food and Drug Administration Retrieved June 14, 2010. http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2010/default.htm

These are just a few tips that can help keep IRBs functioning successfully. As you can see from the top five violations, IRBs are being cited mainly for improper documentation. It is imperative that each IRB maintain proper documentation of each meeting, including minutes, board rosters, attendance, etc. IRBs must also ensure that they are executing the correct techniques in qualifying potential clients. An important detail about the GAO sting operation is that two IRBs denied the fictitious company and product before Coast IRB accepted it. Staffs must do the research and find out who each potential client is, what they do, how they do it, and where they do it.

About Pearl IRB

Pearl IRB is an independent Institutional Review Board that provides comprehensive IRB services for institutions, principal investigators, sponsors, and CROs nationwide. We deliver quality and timely reviews that balance the interests of human subjects, sponsors, and institutions. Together, we will drive enhanced efficiency and value in clinical research. To learn more, please visit us at www.pearlirb.com, call us at 317.278.4100, or email info@pearlirb.com.