

Public Comments for HSCR Advisory Committee meeting December 5, 2007**From: Associate Director, Eli and Edythe Broad Center of Regenerative Medicine and Stem Cell Research, University of California, Los Angeles (UCLA)****Received via email: November 29, 2007**

Dear Human Stem Cell Research Advisory Committee (HSRCAC),

Thank you for the opportunity to comment on the proposed Stem Cell Research Oversight (SCRO) committee reporting forms intended to fulfill CA Health & Safety (H&S) Code requirements for non-CIRM sponsored human embryonic stem cell (hESC) research. Though the forms look great and appear very user friendly, I have concerns about the amount of proposed information to be collected by the forms, the potential undue burden without benefit on SCRO/ESCROs, and whether the information is consistent with the H&S Code.

The information the forms are intended to collect pose real potential undue burdens on SCRO/ESCROs and their staff and the requirements far out reach the legislated mandate. Additionally, it is difficult to understand the legal or ethical protections such reporting provides to anyone.

A. Regarding the non-Assisted Oocyte Production (AOP) hESC research report forms

1. The law at H&S Code 125119.3 appears very restrictive regarding data collection for non-AOP hESC research:

- a. Number of hESC projects reviewed (this should be interpreted as aggregate numbers rather than reporting on individual projects)

- b. Status and disposition of each project (this could be done in aggregate numbers. Please see my attached revised reporting form "DHS non AOP report form 071121.xls")

- c. Any unanticipated problems and the actions taken to respond, and
 - d. Any applicable information required at H&S Code 125342 about AOP (this should be reserved for the separate AOP reporting form).

2. The proposed HSCRAC form (see attached: "SCRO Reporting Form 11 13 07.xls"), however, requires specific information not contemplated by the regulations at 125119.3. All of the items inconsistent with the Code should be removed from the form, including the following:

- a. Project titles

- b. Names and addresses of PIs

- c. Names of Co-Is
- d. Lay summary/description of the project
- e. Funding source
- f. Locales of PIs and collaborators
- g. Source of oocytes/embryos
- h. Source of hESC or lines
- i. Anticipated duration of project (which is likely difficult to determine)

3. I suggest that the HSCRAC reporting requirements follow CA law as outlined in the H&S Code. The report form should be limited to the reporting requirements at 125119.3 outlined above. If there is a perceived need for more information, such requirements should have appropriate justification and be clearly linked to the existing law. The HSCRAC should not attempt to change the law without going through the required rule making procedures. Otherwise, the requirements are being created outside of the law and will create an undue labor intensive burden for ESCRO reporting.

4. I attached a draft form ("DHS non AOP report form 071121.xls") that I think would satisfy the H&S code requirements.

B. The AOP form.

1. The data collection requirements for AOP include those described above in A(1) and at H&S Code 125342.

2. The data at H&S Code 125342 include and are limited to:

- a. specific demographic points,
- b. information about every oocyte donated or used sufficient to determine provenance and disposition of the materials,
- c. adverse health outcomes, and
- d. the data should preserve the confidentiality of the donors

3. Section 2 of the form asks for specific information not contemplated by the Code that should be omitted:

- a. 3.2 Height
- b. 3.3 Weight
- c. 3.7 Parity
- d. 3.9 Born in the USA

4. The information requested in Sections 4 - 8, 10 - 14, and Section 21 are not included in the Code and should be omitted.

5. It is difficult to discern the type of information intended in Section 18, whether an unintended pregnancy is an adverse health outcome of oocyte donation (as required in 125342(a)(3)), and the time limit, if any, for investigators/clinicians to collect such data. The Section should be clarified and modified consistent with the H&S Code or omitted.

6. Sections 15 and 20 ask for the IRB/SCRO to assess moderate or severe adverse events. Such an assessment will not be possible without definitions that should be imbedded in the form.

7. I suggest that the reporting requirements follow CA law as outlined in the H&S Code. The report form should be limited to the reporting requirements in the H&S Code outlined above. If there is a perceived need for more information, such requirements should have appropriate justification for public review and be clearly linked to the existing law.

As noted above, the additional information required in the proposed reporting forms will pose an undue burden on SCRO/ESCROs and their staff and could actually injure the research endeavor through the creation of onerous data collection mandates not supported by law that provide no additional protections to anyone, including human embryos.

Thank you again for the opportunity to provide comments on the proposed forms. Please do not hesitate to contact me if you have any questions.

Sincerely,
Steven Peckman

Associate Director
Eli and Edythe Broad Center of
Regenerative Medicine and Stem Cell Research
University of California, Los Angeles
www.stemcell.ucla.edu

Proposed SCRO Committee Reporting Form for Non-AOP Projects

Stem Cell Research Oversight Committee Report Form for Non-AOP Projects				
FORM HSCR1260-1				
	Approved	Disapproved	Pending	Total Reviewed
1. Disposition of Projects	20	1	5	26
	Number of Projects			
2. Unanticipated/Unforeseen Problems	1			
3. Serious Continuing Non-Compliance	0			
TOTAL	1			
For sections 2-4, please attach a brief description of the ESCRO requirements or determinations for each reported project and reported actions to respond to these situations.				

Public Comments for HSCR Advisory Committee meeting December 5, 2007**From: Co-Chair of the ESCRO Committee for the University of California San Diego (UCSD)****Received via email: November 30, 2007**

To: Human Stem Cell Research Advisory Committee

I am writing as the Co-Chair of the Embryonic Stem Cell Research Oversight Committee for the University of California San Diego (UCSD). These comments are based on a review of the attached 11/13/07 drafts of proposed reporting forms for Oocyte Retrieval and SCRO Committee Reporting. Unfortunately, the comments that follow are not based on a campus consensus, nor do I have time to be specific about individual items on the forms, because we only learned of the proposed review and opportunity to comment at the end of last week. I am generally in agreement with separate comments submitted 11/29/07 by Steve Peckman of UCLA, but I hope the following comments will also be of use to the Advisory Committee.

Overall

Overall, I am concerned that the scope of the proposed reporting form extends well beyond what is spelled out in California regulations. Importantly, it is very difficult to see how most of what is requested is designed to provide needed legal or ethical protections. Further, while the benefit is difficult to see, the cost is clear. The extent of the information requested is likely to significantly increase burden on review committees and probably investigators as well. The result is that we risk diverting efforts and resources away from real and identified areas of concern in order to complete the reporting forms.

Value of Reporting Forms

The attempts to create a clear, user friendly reporting form so that necessary information can be collected from California SCRO/ESCRO Committees is much appreciated. Since we first heard at UCSD about the reporting requirement, we were particularly concerned that it was not clear what information would need to be reported. Following incorporation of recommendations from reviewers of the draft report forms, this effort will be of great help.

More Data Requested Than Needed

However, in reviewing the proposed reporting forms for Oocyte Retrieval and Embryonic Stem Cell Research, it appears that the extent of the data requested is often neither necessary nor appropriate. That said, I can appreciate the interest in having answers to most of the questions listed. It will be of great interest to be able to collect information on these questions (e.g., what % of hESC research projects in California are funded by various entities). However, to the extent that such data are for the purpose of research and not for the purpose of legal or ethical protections, such a project should be

designed and conducted by researchers rather than incorporated into a reporting form created to meet a regulatory responsibility.

Risk of Loss of Confidentiality

It was surprising to see the number of identifying details requested for oocyte donors. Although this is not my area of expertise, it seems plausible that the listed information will be more than sufficient to identify some and perhaps many individuals who had presumed their identities would be kept confidential.

Awareness of Proposed Discussion of Reporting Forms

Based on an informal survey of others in San Diego and other ESCRO Committees in California, it appears that a surprisingly large number of people were not aware of this pending meeting to discuss the form. Although I'm sure efforts were made to get the word out, it's possible that there would be value in doing more than has already been done. For example, unless I'm mistaken, no notices were sent out via the mailing list at CIRM, which would seem to be a logical mechanism for reaching stem cell researchers and institutions in California. It also appears that this issue did not make its way from the Office of the President of the University of California out to the campuses of the University.

Recommendations

1. My suggested alternative is that for each question asked it should be clearly justified directly by regulation or by analysis that the information provided will in fact be useful and usable.

2. If my assumption that a large proportion of stem cell research institutions had little or no time to review the proposed changes, then it would be worth considering a delay to get out a second, more comprehensive, request for comment. This would allow for a more considered review of these very important reporting forms.

Thank you for your time and consideration. Although I would have been interested in participating in the upcoming meeting, I heard about the meeting too late to change appointments already scheduled.

Sincerely,
Michael Kalichman, Ph.D.
Director, Research Ethics Program
University of California, San Diego

Public Comments for HSCR Advisory Committee meeting December 5, 2007

From: Susan Berke Fogel, on behalf of the Pro-Choice Alliance for Responsible Research

Received via email: December 3, 2007

Comments on SB 322 forms:

1) On the Written Records of Subjects Involved in AOP:

3.9 Delete:

We don't think this question is appropriate, and there is no basis for the requirement that we can see. The statute references race/ ethnicity. Whether or not a person was born in the U.S. is not necessarily an indication of either. In addition, this question raises issues of immigration status that are not relevant.

We would suggest adding "other" after questions 15.2 and 16.7 instead of question 20

Additional questions:

Does the physician/surgeon or his or her immediate family members have any professional interest in the outcome of the research or of the oocyte retrieval procedure?

What is that interest?

Was it disclosed to the subject?

Was the subject provided an objective and accurate statement about the existing state of the research for which the subject is providing oocytes.

Did subject document any preference regarding the use of her donated material?

What were those preferences?

2) Informed Consent Form Checklist:

Basic state and federal requirements:

12. What legal rights does this question reference? Should be more explicit.

CHPH requirements:

Question 11 should be framed as a statement: Donors are offered an opportunity to document their preferences regarding future uses of donated materials.

Add:

Statement as to any professional interest of the physician/surgeon or his or her immediate family in the outcome of the research or of the oocyte retrieval procedure.

Susan Berke Fogel, J.D.
Pro-Choice Alliance for Responsible Research
Sherman Oaks, CA

Public Comments for HSCR Advisory Committee meeting December 5, 2007

**From: Project Director on Reproductive Health and Human Rights,
Center for Genetics and Society**

Received via email: December 4, 2007

Here are 2 comments on the Written Record of Subjects Involved in Oocyte Production:

1. The race/ethnicity categories, income ranges, and language categories should be the same ones used by the US Census.
2. There should be explicit criteria defining each category under Adverse Health Outcome (what is "serious" under "Severe"; how does that differ from "Hospitalization?" Can there be hospitalization that is "moderate?")

Thank you,
Emily Galpern

Emily Galpern, MPH
Project Director on Reproductive Health and Human Rights
Center for Genetics and Society
<http://www.genetics-and-society.org>

Public Comments for HSCR Advisory Committee meeting December 5, 2007**From: The Stem Cell Research Oversight Committee,
Stanford University****Received via email: December 4, 2007**

December 4, 2007

Dr. Shabbir Ahmad, Human Stem Cell Research Program
California Department of Public Health
Maternal, Child & Adolescent Health Program
Epidemiology, Assessment & Program Development
P.O. Box 997420, MS 8304
1615 Capitol Ave.
Sacramento, CA 95899-7420
Email:stemcell@cdph.ca.gov

Re: Draft Stem Cell Research Reporting Forms

Dear Dr. Ahmad:

In response to the Department's invitation for public comment, the Stanford University Stem Cell Research Oversight committee ("Stanford SCRO" or "SCRO") is pleased to submit comments on the Department's draft reporting forms (HSCR1260-1, -2).

The Stanford SCRO is committed to reviewing and approving stem cell research in accordance with high ethical standards and legal requirements. The SCRO is familiar with S.B. 1260 as it affects non-CIRM-funded research, but is concerned that the draft reporting forms substantially exceed the statutory requirements. The law requires reporting to the Department of only the following information:

1. SCRO reports: The law requires a report of the following: (i) the number, status, and disposition of human embryonic stem cell (hESC) research projects that the SCRO has reviewed; and (2) unanticipated problems, unforeseen issues, or serious continuing investigator noncompliance and actions the SCRO has taken in response. S.B. 1260 Sec. 4 (Health & Safety Code § 125119.3).
 - Accordingly, we agree with draft form HSCR1260-1, "SCRO Committee Information," to the extent it requires information about the number of hESC projects reviewed (item 4). We also agree with the second part of HSCR1260-1, "Individual Project" reports, to the extent it requires information about project disposition (item 3) and serious investigator noncompliance and SCRO response (items 17-18). However, S.B.1260 neither authorizes the Department to mandate, nor requires any SCRO to report, the remaining information in the draft forms.

2. Reports re: oocyte procurement for research: The law requires a report of the following: (i) a written record of de-identified participant demographic information; (ii) information sufficient to determine provenance and disposition of each oocyte used or donated; and (iii) adverse health outcomes. S.B. 1260 Ch.2 (Health & Safety Code § 125342).
- Accordingly, we agree with draft form HSCR1260-2, "Written Record of Subjects Involved" in egg retrieval, to the extent it requires demographic information (items 2 and 3, with limited exceptions), and adverse health outcomes (items 15-20). We also agree with the second part of HSCR1260-2, "Human Oocyte Retrieval for Research Reporting Form," to the extent it asks if the facility is a Society of Assisted Reproductive Technology member (item 3) and asks for the name, city, state, and zip code of the facility and IRB (1, 2.9-2.11, 4, 6.9-6.11). However, S.B. 1260 neither authorizes the Department to mandate, nor requires any facility or SCRO to report, the specific remaining information in the draft forms. In addition, should the Department continue to seek such broad information about oocyte procurement, there are a number of terms in this form that we believe are ambiguous and would have to be clarified.

We respectfully seek the Department's commitment to revise the forms in a manner that stays within the statutory mandate. In addition to the Stanford SCRO's main concern that the draft forms exceed the statutory authority to require reporting, the detail and breadth of the draft requirements would be unprecedented in the research community. For example:

- No other state supporting stem cell research imposes such detailed reporting requirements on SCROs or their institutions. Most states require summary reports without specifying the format.¹
- The federal research framework has reporting requirements as directly authorized by federal statute or regulation. For example, the federal Office for Human Research Protections (OHRP), which interprets and enforces the Common Rule (45 CFR Part 46), requires IRB oversight, but in no way requires an IRB to report that each participant has provided informed consent or has received other protections in any studies, including any perceived as sensitive; such a reporting requirement would exceed the federal agency's authority and would be extremely onerous to implement. In contrast, the draft HSCR1260-2 form would require detailed reports, beyond the statutory authority, about each participant in oocyte retrieval research. The reporting form instead should ask the SCRO to represent whether it and the IRB have reviewed and approved the study, and all participants have given consent and not been paid more than

¹ For example, see Massachusetts Department of Public Health policy on annual stem cell research reports, http://www.mass.gov/?pageID=eohhs2terminal&L=5&L0=Home&L1=Provider&L2=Certification%2c+Licensure%2c+and+Registration&L3=Programs&L4=Human+Embryonic+Stem+Cell+Research&sid=Eeohhs2&b=terminalcontent&f=dph_quality_healthcare_p_stem_cell_instruction&csid=Eeohhs2.

reimbursable expenses. This would establish provenance in a reasonable and effective way.

- As another example, OHRP requires certain basic IRB information pursuant to express regulatory requirements (concerning “assurances” to the federal agency), and the agency lists IRB simply by IRB name and city/state. The Department’s draft forms, however, seek detailed contact information about the SCRO and the IRB which would be made public, despite the fact that S.B.1260 contains no IRB reporting requirements and no IRB or SCRO registration requirements.
- Certain hESC research conducted in California is or will be subject to FDA Human Cells, Tissues, Cellular and Tissue-Based Products (HCT/P) regulations (21 CFR Part 1271), among other FDA regulations. Adding the Department’s detailed reporting requirements that are not legislatively authorized to FDA regulations on recordkeeping and reporting would be onerous for California SCROs. In particular, we note that the Department’s draft forms would require completion of more than 50 fields, per participant, in research involving egg retrieval (Form 1260-2) and nearly 50 fields per individual research project (Form 1260-1). As noted above, only a small number of these fields are authorized by statute.

We also note that certain information requested about participants who undergo egg retrieval is likely identifiable information, contrary to S.B.1260. Height and weight seem unnecessary and could be used to identify individuals, in connection with other information, given that the number of participants in a SCRO-approved egg retrieval study may be limited. Further, the law calls for “income bracket,” which is preferable to the participant income field in the draft form.

We appreciate your consideration of these comments and are pleased that these forms will receive further discussion at the public meeting on December 7, 2007.

Sincerely,

The Stem Cell Research Oversight
Committee of Stanford University