1 PURPOSE
This procedure describes the activities and processes involved in obtaining legally effective informed consent/assent from subjects participating in research activities at MHS.

2 GENERAL INSTRUCTIONS AND RESPONSIBILITIES
2.1 Informed consent is required when an activity is conducted solely for the purposes of research.

2.2 Legally effective informed consent should be obtained for each subject enrolled into research except where waived by an IRB or in special emergencies.

2.3 The consent process must ensure confidentiality.

2.4 "The reasonable person" standard will be used, meaning enough information is given to allow the person to decide whether or not to participate in the research. The person should clearly understand the range of risks, the potential benefits, and the voluntary nature of participating in the research.

2.5 The person's ability to understand is based upon that person's level of education, rationality, maturity, and language. The presentation of the information must be adapted to each person's capabilities. The subject should be questioned periodically during the consent discussion to assess their level of understanding of the information and given the opportunity to ask questions.

3 Obtaining Informed Consent
3.1 Delegation and Method of Obtaining Consent
3.1.1 The Principal Investigator and his/her delegated key personnel are responsible for obtaining and documenting the informed consent of each subject who participates in research.

3.1.1.1. The Principal Investigator (PI) for the study will prospectively identify which members of the research team will be obtaining informed consent.

3.1.1.2. The designated research team member must be: (1) trained in human subject protections; (2) trained on the protocol; (3) listed on the Delegation of Authority Log; and (4) approved by investigator.

3.1.1.3. Additional requirements may be applicable for key personnel (e.g. Cooperative Group registration, prior IRB or sponsor approvals).

3.1.2 The IRB may require additional parties to participate in the informed consent process for other types of non-exempt research (e.g. advocate witness for high risk studies and/or highly vulnerable subjects; independent child advocate for wards of the State).

3.1.3 The designated research team member should confirm the status and role of legally authorized representatives and their legal status to consent on behalf of the subject.

3.1.4 A designated research team member will discuss the consent document with the prospective subject.

3.1.5 The designated research team member will emphasize the ways in which the research differs from standard of care:

3.1.5.1 Clearly identify one or more non-research alternatives to the research (including palliative care, where appropriate).

3.1.5.2 Clearly identify the potential risks and benefits of the research, compared with the non-research alternative(s).

3.1.6 Each subject must be told that he or she has the right to decline participation and to withdraw from the research without it negatively affecting their medical care in any way.

3.1.7 The designated research team member obtaining informed consent will encourage the potential subject to read the consent form carefully.

3.1.8 Potential subjects may take the consent form home prior to signing it. They should be encouraged not to sign the consent form at home, but rather upon their return to the hospital/clinic/research site.

3.1.9 If the prospective subject chooses to participate, then he/she will sign the informed consent document along with the person obtaining informed consent after having all their questions answered.

3.1.10 For interventional studies, drugs and/or devices, the investigator will also sign the consent.

3.1.11 Consent is an ongoing process and ongoing discussions of continued participation should occur at each research related encounter.
3.2 Verbal Consent

3.2.1 In limited circumstances, the IRB may waive the requirement for the signature of the subject or the IRB may permit obtaining verbal consent where, for example, the research involves a telephone survey. When a PI is seeking a waiver of documentation of informed consent, an information sheet or verbal script that includes the required elements of informed consent, must be submitted to and approved by the IRB before use. This includes any translated versions of these documents.

3.3 Written Informed Consent

3.3.1 Once a potential research subject has been identified, the designated research team member will print the informed consent document and take care to utilize the most up to date IRB approved version.

3.3.2 The process for obtaining written informed consent will be consistent with the process outlined in the IRB approved protocol or new project application forms.

3.3.3 The process for obtaining written informed consent will be different when a witness must be used. Please see additional requirements for use of witnesses when obtaining informed consent from non-English speakers and illiterate individuals (Sections 3.7 and 3.8).

3.3.4 Obtaining a subject’s written informed consent for research does not eliminate the requirement to obtain other hospital required consents prior to treatments, procedures or testing (e.g. HIV testing).

3.3.5 When HIPAA authorization is not incorporated into the consent document, the research related HIPAA authorization form is also required to be obtained, documented, and scanned into the EPIC media tab with the research consent.

3.4 Consent via Fax/E-mail

3.4.1 In the event that consent cannot be obtained in person, it may be obtained via fax or e-mail. In this case, the subject or Legally Authorized Representative (LAR) should sign the ICF and fax/email it back to the research personnel. The person obtaining consent should then sign the faxed/email copy. If possible the subject/LAR should bring or mail the original copy of the ICF with their wet ink signature to the research personnel. Both copies of the ICF with their respective original signatures should be placed in the subject’s Electronic Medical Record (EMR). The documentation of consent form should include a description of this process.

3.4.2 The person obtaining consent should sign the consent form and make appropriate notes in the subject’s medical record upon completion of the informed consent discussion (SOP 601 See Attachment C, Documentation of Consenting Process Template) including whom they spoke with, the date and time of the discussion, and when the document was given to the subject. The subject may fax/scan/email a signed copy of the consent form to the research site. The subject should return the signed original consent form to the research site.

3.4.3 Upon receipt of the faxed/scanned consent form, the PI or appropriate designee should sign and date the faxed/scanned form as acknowledgement of receipt and clearly document the
date and time that it was received. After receiving the signed original consent form, the PI or
appropriate designee should sign, date it, and file it with the faxed/scanned copy.

3.4.4 Research subjects who have verbally indicated that they have signed the consent form
and will return it at some future date are not eligible to participate in the research project. The
subject is permitted to participate in the research project after the PI or his/her designee has the
original signed consent form or a faxed/scanned copy.

3.5 Documentation requirements

3.5.1 All persons (including the subject, and/or their legally authorized representative, person
obtaining informed consent, and investigator) must SIGN and DATE the informed consent
document for themselves.

3.5.2 The person obtaining informed consent or another research team member must ensure
that:

3.5.2.1. The subject has consented to, or declined participation in, any optional studies by
initiating his or her choice, if applicable.

3.5.2.2. The appropriate check boxes, initials, dates are completed in the consent.

3.5.2.3. A copy of the finalized signed and dated informed consent document is provided
to the subject.

3.5.2.4. If not incorporated into the research consent, a separate HIPAA authorization
document is signed and dated by the subject.

3.5.3 The person obtaining informed consent will document the consenting process in the
medical record (or clinic notes) for the research study. A description of the consenting process
includes the date(s) of consent and states that the subject has received an explanation of the
content of the informed consent document. It should be noted if witnesses or others were present.
It should be noted that the subject had an opportunity to ask questions about the research and
received a signed and dated copy of the informed consent document. The language that the
subject was consented in should also be noted. Designated research personnel may use either
Attachment C (SOP 601) as a template, or enter the note directly into the subject's research or
electronic medical record.

3.5.4 A copy of the signed informed consent document and HIPAA authorization (if separate
from consent), must be kept in the subject's medical record when a medical record exists. A copy
of the signed informed consent and HIPAA authorization will be scanned into the EPIC media tab.
If the research personnel do not have access to perform this activity then the document should be
forwarded to Health Information Management.

3.5.5 All original informed consent documents signed by each subject will be retained for
regulatory purposes in the Trial/Regulatory Master File.

3.6 Updated Information Based on New Significant Findings

3.6.1 The subject will be informed in a timely manner by a designated research team member
when new relevant information becomes available. The IRB will make the final determination of
what information should be communicated to the subject, how the subject will be informed and the timeframe. Unless otherwise stated by the IRB, the subject will be updated with the information at their next research visit.

3.6.2 There are three (3) acceptable methods for informing a subject of updated information:

3.6.2.1. Subject signs a revised IRB approved informed consent document (a.k.a "re-consent"). Unless otherwise specified by the IRB, the re-consent method involves a review of the entire consent form, including the optional studies. As applicable, the PI may request that the IRB not require re-consent for specific optional studies.

3.6.2.2. A letter or addendum can be sent or given to the subject to update them on new information.

3.6.2.3. If the subject is verbally informed of updated information, this should be documented.

3.6.3 The IRB will specify that one of these methods or a combination of these methods be used to update the subject. The method of communication chosen should be clearly documented.

3.6.4 Designated research personnel (i.e. those delegated to obtain informed consent) and documentation requirements for informing the subject are the same as the initial consenting process. If any updated information is presented to the subject that may affect participation and is not documented in an informed consent document or through a letter or addendum, the verbal consent of the subject to continue participation must be documented.

3.6.5 Copies of re-consenting documents or processes should be recorded in the medical record similar to Section 3.5.3 and 3.5.4.

3.7 Non-English Speaking Subject

3.7.1 Persons obtaining informed consent from non-English speakers or informing them of updated information will follow the same process as described above in 3.3, 3.4, 3.5, 3.6.

3.7.2 If the healthcare provider is not able to communicate in the subject’s and/or legally authorized representative’s preferred language, a trained/certified bilingual employee interpreter (see list on MHS intranet) fluent in both English and the subject's spoken language or a similar individual from the hospital foreign language interpretation service is required. Appropriate documentation of the process and the interpreter’s role in this process is required. Bilingual family members should not be used as interpreters, nor should someone on the floor/clinic be used if not adequately trained and certified.

3.7.3. A written translation in the subject’s spoken language of the entire approved English consent form should be provided. Ad hoc translation by an interpreter is not permitted from English to the subject’s spoken language.

3.7.4. The interpreter does not have to read the translated consent to the consenting individual unless they cannot read. They are simply there to help translate questions and responses between the person obtaining consent and the subject.
3.7.5. Informed consent is an ongoing process and it is recommended that a trained interpreter be subsequently available.

3.7.6. The person obtaining consent, along with the certified translator should sign the ICF. If the telephone translation service is used, it should be clearly documented along with the name of the translator and their ID number.

3.8. Illiterate Subject or Someone with a Physical Disability

3.8.1. A person who is physically unable to talk or write, may provide informed consent for the research if (1) they are competent and able to indicate approval or disapproval by other means; and (2) the person has the ability to understand the concepts of the research and evaluate the risk and benefit of participating.

3.8.2. The designated research team member must document the method used for communication and the specific way consent was communicated. The illiterate subject will indicate his/her consent with a mark, such as an “x”, in place of a signature.

3.8.3. A witness must be present for the entire consent process and sign the informed consent document. The witness must be a person who is independent of the research team, does not have a coercive relationship with the subjects, and attends the informed consent process. A translator who participated in the consent process may serve as the witness. The witness is confirming that the consent was explained to and understood by the subject and/or legally authorized representative. The witness statement can be documented on the research consent or on the hospital’s attestation form. When the hospital’s attestation document is used, it should become part of the research consent and should be provided to the subject.

3.8.4. For persons who lack the capacity to consent, the signature of a legally authorized representative is required.

3.8.5. A copy of the signed and dated informed consent document should be provided to the subject.

3.9. Inclusion of Children or Minors

3.9.1. Children or minors (ages 7-17) must give their assent prior to enrollment into the research as required by the MHS IRB. In general, investigators and consenting personnel are expected to provide children with developmentally appropriate information about their diagnosis, treatment, and proposed research participation. Investigators should explain the purpose, procedures, risks, and benefits, and offer an opportunity to ask questions.

3.9.2. Assent of the child is required unless the subject is incapable of providing it because of immaturity or cognitive abilities or the research is only prospectively beneficial through participation in the research. In these situations, a parent’s decision may override a child’s refusal to assent.

3.9.3. For children under the age of 7, assent is not required unless determined otherwise by the reviewing IRB. In cases where the child is below the age of 7, the parent can provide consent for their participation in the research study.
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3.9.4. For children age 7 and older, the child must sign the assent box unless the designated research team member documents that the child/minor is not capable of assenting, the IRB has specified in writing a differing age requirement for assent, or the IRB waives the formal assent of the child.

3.9.5 Children in the care of Florida’s Department of Children and Families (DCF) may not be enrolled into research studies designed to develop new psychotropic medications or evaluate the suitability of providing medications to children previously approved for adults. This does not preclude research that evaluates the consequences of administration of psychotropic medications to children in state care.

3.9.6 Parental permission may not be waived for FDA regulated research.

3.9.7. If during the course of the research the minor reaches the age of majority (18 years of age), he or she must provide informed consent with either (1) the current approved version of the informed consent document or (2) an alternative approved consent document for continuation as an adult.

3.10. Waiver of Assent: Determined by the IRB

3.10.1 Assent may be waived by the IRB. When not waived, dissent of the subject should be respected, even at the expense of the parent(s) consent.

3.10.1.1 If the IRB determined that the research holds out a prospective benefit that is important to the health or well-being of the child or minor and is available only in the context of research, the assent of the child or minor is not a necessary condition for proceeding with the proposed research.

3.10.2 As required by the IRB, the parent(s) or legally authorized representative must sign the informed consent document to provide permission for children or minors and adults who lack the capacity to consent to participate in the research.

3.10.3 If a situation arises in which a subject is in the age range required for assent and is not capable of assenting AND the research is of minimal risk or has a prospective benefit for the child or minor, the investigator should proceed and document the situation. The IRB should be notified of the deviation as per its policies unless time is available to obtain an IRB waiver of assent for the subject prior to their engagement in the research.

3.11 Legally Authorized Representatives (for children and adults who lack capacity to consent)

3.11.1 Children who are research subjects and are less than 18 years of age:

3.11.1.1. Parents. Only the parents (natural or adoptive), legal guardians, or individuals who possess a power of attorney or court order authorizing consent to participate in research may grant permission for their child’s participation in research. One parent or legal guardian is required to consent on behalf of the minor unless the IRB requires otherwise. Grandparents, stepparents, adult sibling, and other relatives or caregivers may not grant permission unless they have been granted formal custody of the child by a court. With the exception parents, the PI must
obtain a copy of the court order or other legal documents as evidence of that person’s authority to grant permission for the child’s participation in research.

3.11.1.2 Children in State Custody. Department of Children and Families (DCF) can act as the legally authorized representative for a child in state custody with a court order granting custody that includes specific authorization to enroll the child in research. In such cases, the PI must obtain a copy of the court order. Care should also be taken when enrolling wards of the state and consideration given to whether the child will be able to fulfill the obligations of the study (visit schedule, follow-up, etc).

3.11.1.3 Mature Minors or Emancipated Minors. For federally funded studies, DHHS and FDA regulations consider "children" are persons who have not attained the legal age to consent to treatment or procedures involved in research, under the applicable laws of the jurisdiction in which the research will be conducted. Subpart D of the DHHS must be applied if and only if an individual involved in the research meets this definition. When research is conducted in Florida, all individuals under the age of 18 years meet this definition with the following exceptions:

EMANCIPATED MINORS: Emancipated minors may consent in the same manner as an adult. Emancipated minors include:
   a) Any person under the age of 18 who is legally married or is a parent.
   b) Any person under the age of 18 who has been legally married and is now divorced, or a widower or widower.
   c) Any minor who is pregnant.
   d) Any minor declared to be an adult by a court of law.
   e) Any minor under the custody of the State Department of Corrections.

Minors emancipated by pregnancy outside of marriage cannot consent to research if the research does not involve treatment for which they can consent under Florida Law. See MHS Standard Practice Guidelines for Obtaining Consents for Elective and Emergency Procedures.

Adults between the ages of 18 to 20 years of age cannot consent to research procedures that involve the consumption of alcohol.

MATURE MINOR: Any person under the age of 18 who maintains his/her own residence and is self-supporting is not automatically considered an emancipated minor. In these circumstances, a reasonable effort to contact parents must be made. If a parent can be contacted, consent should be obtained from the parent. The consent of the minor can be accepted if the parents cannot be contacted after reasonable efforts have been made.

MINORS: (exceptions)
   a) Anyone over the age of 17 may consent to the donation of blood, unless there is a known objection by the parent or guardian.
   b) Any minor may consent, without parental notification or approval, to voluntary substance abuse impairment treatment.
   c) A minor may consent to examinations and treatments for sexually transmitted diseases.
   d) In all cases, good faith reasonable efforts shall be made to contact the parent or legal guardian before rendering care.
3.11.4 The IRB may determine that both parents' signatures are required when "reasonably available". Guidelines for determining if a parent is "reasonably available" are: 1) the parent's role in the care and/or decision-making of the child is such that his or her involvement and availability may be readily ascertained from Memorial Healthcare records; or 2) the parent's whereabouts are known at the time the child is approached for research purposes.

3.11.5 If the Investigator is unable to make contact with the parent, the Investigator is to document the attempts made, including the date and the method of attempted contact (e.g. phone, fax, email). After three separate attempts, it may be concluded that the parent/guardian is not reasonably available.

3.11.6 Situations may exist that to require the signature of either parents or guardians would represent a significant impediment to the initiation of the investigational procedure. If only one parent is reasonably available, one parent's consent may be relied upon. The proceedings in this situation should be documented and the appropriate and reasonable attempts made to notify the other parent as soon as possible.

3.11.7 Even when a protocol generally requires both parents' consent, the permission of both parents is NOT required if: 1) a court grants decision-making authority solely to one parent; 2) if only one parent is alive and competent; or 3) if a person or agency other than the parent has been assigned legal custody of the child.

3.11.8 When children are under the shared legal custody of two parents or guardians, each parent's rights to decision-making are to be respected to the greatest extent possible.

3.11.2 Subjects who lack capacity to consent

3.11.2.1 The Investigator and designated research personnel should assess the subject's ability to comprehend, understand, and/or make clear decisions about participation in the research. When concerns or disputes arise, the subject should not be enrolled in the research without further assessment and documentation or consent by a legally authorized representative.

3.11.2.2 When an IRB approves subject enrollment using legally authorized representatives, the investigator or designated research personnel should seek informed consent in accordance with state law for surrogate decision makers for health care treatment. Assent of the subject if the subject is capable of providing assent should be obtained, and the dissent of the subject should be respected. Under the law, researchers must locate and follow the directions of the following individuals, in order of priority (only moving to the next level if such a person is not reasonably available, willing or competent to act):

a) A court-appointed guardian or conservator, or someone appointed as an agent for the subject under a durable power of attorney for health care may grant permission for the subject to participate in research. In such cases, the PI obtains a copy of the court order or durable power of attorney as evidence of that person's ability to grant permission on the subject's behalf.

b) Health care agent. The health care agent is the individual named in a Durable Power of Attorney for Health Care (DPAHC) executed by the subject while the subject had decision-making capacity. The health care agent acts on the subject's behalf to make health care decisions, including enrolling the subject in a research study, when the subject is unable to provide consent.

c) Health care decision maker (proxy). When a health care agent, or court-appointed guardian or conservator has not been appointed, the use of a Health Care Decision
3.11.2.3 Health care decision makers (proxy) are selected in the following order of priority:
   a) The subject's spouse
   b) Any adult son or daughter of the subject (if more than one, the majority of the adult children who are reasonably available)
   c) Either parent of the subject
   d) Any adult sibling of the subject (if more than one, the majority of the adult siblings who are reasonably available)
   e) Any adult relative who has exhibited special care and consent, who has maintained close contact, and who is familiar with the patient's activities, health, and religious or moral beliefs.
   f) A close friend of the subject who has exhibited special care and concern for the subject, and presents an affidavit stating that he or she is a friend of the subject who is willing and able to become involved in the subject's health care, has maintained such regular contact with the subject so as to be familiar with the subject's activities, health and religious or moral beliefs.

3.11.2.4 When there are multiple candidates at the same level of priority in the hierarchal structure, it becomes their duty to reach an agreement in regards to decisions regarding the subject's participation in research. If the candidates are not able to reach a consensus, the PI will not enroll the subject into the research project. If consensus is reached, the PI should document the decisions of the candidates and one decision maker should serve as the legally authorized representative for the subject with regard to signing the consent document.

3.11.2.5 If a person presents after the subject has been entered into research that is of greater hierarchal order, that person must confirm that they wish the subject to remain in the study. The research personnel will obtain written confirmation via re-consent or an alternative IRB approved method.

3.11.2.6 Written documentation of re-consent should be obtained when subjects lack the capacity to consent are enrolled in research by a legally authorized representative have regained competency while in the study.

4 REFERENCES TO OTHER APPLICABLE SOPS
   
   - SOP 601 Informed Consent

5 ATTACHMENTS
   
6 APPLICABLE REGULATIONS AND GUIDELINES

- Protection of Human Subjects (21 CFR 50 and 45 CFR 46)
- Institutional Review Boards (21 CFR 56)
- Requirements for an IND (21 CFR 312.20)
- Treatment Use of an Investigational New Drug (21 CFR 312.24)
- Emergency Research Under 50.24 of This Chapter (21 CFR 312.54)

- Florida Statutes 765.401
- Florida Statutes 458.331 (1) (u)
- CF Operating Procedure No 155-10/175-40 9/13/2010 State of Florida Department of Children and Families
- Standard Practice Guidelines Patients with Special Communication Needs