Study Group Working Notes #12: Comprehension of Informed Consent

Study Group: Donor Recruitment

Background: Informed consent issues have been raised in previous Working Notes (see # 3 & 9). This note deals specifically with the issue of comprehension of consent by donors of biological materials used to derive new hESC lines, with particular attention to donors of research oocytes.

Regulations regarding informed consent typically have included more and more requirements for what must be disclosed to research participants. These requirements have been partly responsible for longer and longer consent forms. However, studies indicate that research participants fail to comprehend basic aspects of research – that it is different from clinical care, that the choice of interventions is not based on what is best for the individual participant, that the physician. Many participants cannot identify any risk that was disclosed. From an ethics point of view, what the participant understands about the study is more germane to the goal of making an informed decision whether or not to participate in the research than what was disclosed by the researcher. Thus assessing the comprehension of the participant may be an approach to strengthening the informed consent process. Simple tests of comprehension have been administered, for example, to participants in HIV clinical trials carried out in developing countries, where allegations have been raised that participants do not understand that the effectiveness of the research intervention is unknown and that even if the participant receives the active intervention he or she is still at risk for HIV.

Another consent issue regarding hSC research is oocyte donors may not understand the risks of oocyte donation. SB 18, which was passed by the legislature but vetoed governor would have mandated specific consent language.

A range of additional mechanisms have been suggested to ensure donors have understood the crucial point of the informed consent process. Two approaches frequently cited by commentators are (1) "cooling off" approach and (2) comprehension evaluation. These approaches have been applied separately and in combination to support research.

The cooling off approach utilizes a waiting period between obtaining informed consent and initiating a clinical procedure. The waiting period would allow potential participants to reflect on the information provided in the consent process. The waiting period is also intended to reduce any perception of expectation or coercion (e.g. there is no expectation by either party that the procedure begins right away). Critical to this approach is a two step procedure for first informing potential participants and then having the individual return at a later date.

Assessment of the comprehension of the oocyte donor may be done in several ways. The research team may administer a simple questionnaire covering fundamental aspects of research participation. For oocyte donation these might include (but are not limited to): that no direct therapeutic benefit to the donor or any other specific individual person is expected, that oocyte retrieval involves medical risks, that cells derived from the oocyte may be used for transplantation into patients with various diseases, that the oocyte will not be used for reproductive purposes. Alternatively, CIRM may allow the IRB to determine whether the protocol devised by the investigator adequately provides for assessment of comprehension. That is, CIRM will require investigators to make some assessment of comprehension, but leave it up to the IRB to specify how that shold be carried out.

Another option is having a person other than the one who conducted the informed consent discuss the points with the donor. If, by the end of that discussion, the evaluator is satisfied that the participant understands the crucial aspects of the consent, the donation can continue.

Dr. Kiessling described a four step approach that incorporates both approaches.

Step 1: Explain the goals of the research, the risks of egg donation, and the information in the Consent Form.

Step 2: In order to proceed, the Consent Form must be signed and returned with a witness (cooling off period).

Step 3: The next step is the Minnesota Multiphasic Personality Inventory (MMPI). This test is used in most donor egg programs in the United States. It is a "rank" style test, true/false type format. This test will take up to 2 hours. The test is scored and the results are sent to the study counselor (comprehension evaluation).

Step 4: The donor applicant will meet with the study counselor. In this meeting, the counselor will conduct a clinical interview which includes questions about the applicant's history, current life situation, and her motivation for participating in the stem cell research project. The goal is to make certain this is an appropriate research study for the donor applicant.

Options: The approaches described above are good practices, but one challenge is translate these options to regulation. Regulatory language tends to be all-or-nothing. For example, to accomplish each of the approaches described above the regulations would likely need to either (1) prescribe a minimum period of time between obtaining consent and initiating a clinical procedure or (2) specify how the investigators could evaluate comprehension in a manner that complies with the regulatory requirements. These are options the SWG may consider, but with the recognition that they may require prescriptive approaches. A first step might be to determine if there is a minimum standard that should be met. The minimum standard could be the basis for regulation leaving the option for more involved approaches open.