# Research Involving Cognitively Impaired Persons

Research involving subjects who are mentally ill or subjects with impaired decision-making capacity requires special attention. The principal concern in reviewing research involving individuals with psychiatric, cognitive or developmental disorders or involving individuals who are substance abusers is that their disorders may compromise their capacity to understand the information presented and their ability to make a reasoned decision about participation in research. In addition, research involving these populations may present greater than minimal risk; may not offer direct benefit and may include a research design that calls for washout, placebo or symptom provocation.

## Protocol Components, Study Design and Selection of Subjects

Individuals with psychiatric, cognitive or developmental disorders or individuals who are substance abusers are considered a vulnerable population by the NYU SoM IRB. Research protocols should include the following information to ensure the IRB has reviewed all required evidence.

* The research population and the justification for the use of these individuals as the least burdened population and for specific institutional settings, if any.
* The process by which capacity will be assessed and by whom, which may include involvement of Independent Consent Monitors, or a justification for why assessment may not be required for a given research population.
* The process by which legal authority of surrogates will be verified.
* The process by which prospective subjects and, if necessary, the legally authorized representative, will be informed about any capacity assessment, determination, consequence of such determination (including whether it will be documented in the individual’s medical record), the identity of a surrogate, the nature of the research, and the opportunity to assent, to the extent compatible with the subject’s understanding, prior to enrollment.
* An appropriate monitoring plan that
  + Describes how capacity will be monitored throughout the duration of the study, including a plan for obtaining re-consent by the subject (if any subject is reasonably expected to regain capacity) or by an Legally Authorized Representative (if any subject is reasonably expected to lose capacity), or why such processes may not be required for a given research population;
  + Minimizes risks and negative impact on the subject’s well-being, which may include involvement of Medically Responsible Clinician and must require regular communication with the legally authorized representative; and
  + Requires that subjects who appear to be unduly distressed must be withdrawn from the research in a manner consistent with good clinical practice.

Research involving persons with impaired decision-making capability may only be approved when it meets one of the following categories:

1. **Research involving interventions or procedures that are considered minimal risk and present the prospect of direct benefit to the individual subject.** The IRB may approve such studies if the risks are reasonable in relation to the prospective benefits. For new protocols, this is the only category of research involving surrogate consent that may be eligible for expedited review.
2. **Research involving interventions or procedures that are considered minimal risk and have no prospect of direct benefit to the individual subject, but are likely to yield generalizable knowledge about the subject’s disorder or condition.** The IRB may approve such studies if important to advance to the scientific knowledge of a medical condition that affects the research population, and if the risks are reasonable in relation to such importance. For research in this category, the disorder, condition or factor that prevents the individual from having capacity to consent must be an intrinsic characteristic of the research population such that the research could not otherwise be conducted on subjects who have capacity.
3. **Research involving interventions or procedures that are considered a minor increase over minimal risk but present the prospect of direct benefit to the individual subject.** The IRB may approve such studies only if the risks are reasonable in relation to the prospective benefits, if the potential benefits are similar to those available in the standard clinical or treatment setting, and if the risk-benefit ratio is favorable to participants.
4. **Research involving interventions or procedures that are considered a minor increase over minimal risk and have no prospect of direct benefit to the individual subject, but are likely to yield generalizable knowledge about the subject’s disorder or condition.** The IRB may approve such studies if vitally important to advance to the scientific knowledge of a medical condition that affects the research population, and if the risks are reasonable in relation to such vital importance. For research in this category, the disorder, condition or factor that prevents the individual from having capacity to consent must be an intrinsic characteristic of the research population such that the research could not otherwise be conducted on subjects who have capacity.
5. **Research involving interventions or procedures that are considered a more than a minor increase over minimal risk but present the prospect of direct benefit to the individual subject.** The IRB may approve such studies only if the risks are reasonable in relation to the prospective benefits, if the potential benefits are similar to those available in the standard clinical or treatment setting, and if the risk-benefit ratio is favorable to participants. Such ratios are less favorable when the risk is substantially more than a minor increase over minimal risk. Such ratios are more favorable when the prospect of direct benefit is more certain, or the benefit is expected to be more frequent or more significant.

For research protocols that present greater than minimal risk, the IRB may require that an independent, qualified professional assess the potential subject’s capacity to consent. The protocol should describe who will conduct the assessment and the nature of the assessment. The IRB should permit Principal Investigators to use less formal procedures to assess potential subjects’ capacity if there are good reasons for doing so.

For research protocols involving subjects who have fluctuating or limited decision-making capacity or prospective incapacity, it is the responsibility of investigators to monitor the decision-making capacity or those with decreasing capacity to give consent, a re-consenting process with surrogate consent may be necessary. It is the responsibility of investigators to monitor the decision-making capacity of subjects enrolled in research studies and to determine if surrogate consent must be re-obtained.

## Consent

No person who has the capacity for consent may be enrolled in a study without his or her legal informed consent. Description is provided about regarding describing the requirements for the consent of legally authorized representatives and next-of-kin. A person who has been determined to lack capacity to consent to participate in a research study must be given the opportunity to assent or object to participation and any objection must be heeded.

The IRB will require investigators to conduct a competency assessment whenever there is the possibility of impaired mental status. The IRB will evaluate whether the proposed plan to assess capacity is adequate.

Persons who have been determined to lack capacity to consent should not be enrolled in research which is not likely to result in direct benefit to them, unless the research presents no more than minimal risk.

When potential subjects are capable of making informed decisions about participation, they may accept or decline participation without involvement of any third parties. Any potential or actual subject’s objection to enrollment or to continued participation in a research protocol must be heeded in all circumstances.

An investigator, acting with a level of care and sensitivity that will avoid the possibility or the appearance of coercion, may approach people who previously objected to ascertain whether they have changed their minds.

Under no circumstances may a subject be forced or coerced to participate in a research study. The IRB will evaluate whether a) the assent of subjects is required, and b) whether plan for obtaining assent is adequate.