1.0 POLICY

1.1 Background

1.1.1 Cognitively impaired participants are (1) those individuals who have a psychiatric disorder (e.g., schizophrenia, dementia), or a developmental disorder (e.g., intellectual disability) that affects cognitive or emotional functions to the extent that capacity for judgment and reasoning is significantly diminished, and (2) others, such as persons under the influence of or dependent on drugs or alcohol, those suffering from degenerative diseases affecting the brain, terminally ill patients, and persons with severely disabling physical handicaps, who may also be compromised in their ability to make decisions in their best interests. Cognitively impaired participants are likely to be vulnerable to coercion or undue influence and are to be covered by additional safeguards to protect their rights and welfare [45 CFR 46.111(b)]. Our use of “cognitively impaired” is broad and is intended to cover other terms in use such as “decisionally challenged” and “diminished/impaired capacity to consent”.

1.1.2 It is recognized that cognitively impaired individuals may be able to give consent at certain times, under certain conditions, or for certain types of research participation. That is, ability to consent to research participation may be situation- or person-specific. Investigators may describe various measures to facilitate initial and ongoing informed consent from cognitively impaired persons.

1.2 Policy

1.2.1 It is the policy of the University of Alabama that the IRBs shall consider persons with known or likely cognitive impairment regardless of its cause as members of a vulnerable population.

1.2.2 In reviewing research applications involving cognitively impaired persons, the IRBs will generally follow the recommendations governing the conduct of research in children and of specific recommendations made by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

1.2.3 Selection of Participants.

1.2.3.1 Research involving cognitively impaired persons should have a direct relationship to their illness or condition, unless the IRB determines there is a possibility of direct benefit to the participant that cannot be obtained outside the research project.

1.2.3.2 Particular attention should be paid to institutionalized individuals, as issues of dependence and coercion may be factors that may compromise the voluntary
nature of their participation in research. For this reason, participants should be recruited from a non-institutionalized population, whenever possible.

1.2.4 Risk determination.

1.2.4.1 The IRB will consider the following when reviewing research involving cognitively impaired participants:

1.2.4.1.1 A minor increase over minimal risk may be permitted in research involving those institutionalized as mentally disabled; but, only where the research is designed to evaluate an intervention of foreseeable benefit to their care.

1.2.4.1.2 For research that does not involve beneficial interventions and that presents more than minimal risk, the anticipated knowledge sought should be of vital importance for understanding or alleviating the participant’s disorder or condition.

1.2.5 Limiting Risk.

1.2.5.1 The following measures should be addressed within the protocol to limit participant exposure to risk:

1.2.5.1.1 Psychological or medical screening criteria to prevent or reduce the chance of adverse reactions to the therapeutic or research procedures,

1.2.5.1.2 Specific diagnostic, symptomatic and demographic criteria for participant recruitment,

1.2.5.1.3 Methods for assuring adequate protections for the privacy of participants and the confidentiality of the information gathered,

1.2.5.1.4 Plans to hospitalize participants or expand hospitalization for research purposes,

1.2.5.1.5 Measures to protect individually identifiable information,

1.2.5.1.6 Measures to ensure that proposed research procedures will not be detrimental to ongoing therapeutic regimens.

1.2.6 Informed Consent.

1.2.6.1 Cognitively impaired adults who are able to understand the issues surrounding research participation should be allowed to either refuse or consent to participate in research. Cognitive impairment alone should not disqualify a person from consenting to participate in research or to make an informed voluntary decision. Rather, there should be specific evidence of incompetence or other inability to make an informed decision regarding research participation. Such evidence may include:

1.2.6.1.1 A court of law declaration regarding the participant’s incompetence,
1.2.6.1.2 Assessment by a physician not involved with the research project;

1.2.6.1.3 Results of a valid and recognized psychometric examination of cognitive status.

1.2.6.2 The IRB recognizes and respects the right of a cognitively impaired person to object to and refuse to participate in research. Such objection or refusal shall override all other considerations, including the prospect of a direct health benefit to the participant. This is in keeping with the National Commission’s recommendation that “despite the fact that consent may be obtained from a legally authorized representative or guardian, the feelings and expressed wishes of a ‘cognitively impaired’ individual must still be respected.”

1.2.6.3 The IRB shall observe Alabama law regarding the role of guardians and authorized representatives in making decisions for cognitively impaired persons.

1.2.6.4 Studies involving participants who are cognitively impaired may take place over extended periods. The IRB considers whether periodic re-consenting of individuals should be required to determine that a participant’s continued involvement is voluntary. The IRB may require that Investigators ‘re-consent’ study participants after taking into account the anticipated length and the condition of the individuals to be included (e.g., participants with progressive neurological disorders). Additionally, the IRB considers whether, and when, it should require a reassessment of an individual’s decision-making capacity.

1.2.7 The University of Alabama IRBs shall include at least one member with expertise in research involving cognitively impaired persons and one member who can represent the community interest in this research. If it is not possible to have an expert on the IRB, the IRB may seek expert consultation.

1.3 Responsibility.

1.3.1 The Vice President for Research is ultimately responsible for this policy. Enabling parties include the Research Compliance Officer and Research Compliance staff, the IRB chairs and members, investigators, and faculty supervising student research.

2.0 PROCEDURE

2.1 Screening and Educational Guidance

2.1.1 The principal investigator identifies in the IRB review application that the research study will involve cognitively impaired individuals and submits FORM: Application for Research with Cognitively Impaired Persons with the application.

2.1.2 Upon receipt of the IRB review application, ORC staff will conduct a preliminary screening to determine that the proposed research study involves the use of individuals who are cognitively impaired as study participants. If it does and the investigator does not identify them, the investigator will be asked to provide the necessary information. If it does and the investigator has acknowledged it, the ORC
staff will provide (as necessary or requested) appropriate regulatory or educational materials applicable to the cognitively impaired as vulnerable subjects to the IRB members for guidance during their review.

2.1.3 The ORC, IRB chair, or designee will request a consultant review if it is determined additional expertise is needed during the Initial Full Review, Expedited Initial Review, or the Continuing Review process.

2.2 The Research Compliance staff will determine that a member with expertise in research on cognitively impaired persons and a member able to represent community views will be present for the IRB meeting or will submit written comments. Consultants or other designated persons may attend the meeting or submit comments in writing.

2.3 Review Process

2.3.1 The IRB will review the application and determine whether the study protocol includes the enrollment and participation of vulnerable subjects and whether appropriate safeguards have been considered and are in place.

2.3.2 Guidance will be sought as needed from legal counsel in regard to Alabama state law which might affect the participation of cognitively impaired persons and/or the role of legally authorized representatives or guardians in the consenting process.

2.3.3 As applicable, the IRB will take into account the following elements when reviewing research involving vulnerable subjects:

2.3.3.1 Inclusion/exclusion criteria;

2.3.3.2 Over-selection or exclusion of certain groups based upon perceived limitations (e.g., persons in geriatric psychiatric units) because they are a readily available “captive” population or the assumption that “they would not be able to give informed consent”.

2.3.3.3 Specific laws governing the State of Alabama applicable to specific population groups which may have a bearing upon the final approval of the research protocol (e.g., emancipated individuals, legally authorized representatives, age of majority for research consent, etc.)

2.3.4 The IRB will follow all federal/state regulations or guidelines and IRB policies, in reviewing and approving proposed research that involves the participation of vulnerable subjects, as one vulnerability may be associated with another. Relevant regulations and policies include:

2.3.4.1 Additional Protections for Pregnant Women, Human Fetuses, and Neonates Involved in Research (45 CFR 46, Subpart B);

2.3.4.2 Additional Protections Pertaining to Biomedical and Behavioral Research Involving Prisoners (45 CFR 46, Subpart C);
2.3.4.3 Additional Protections for Children Involved as Subjects in Research (45 CFR 46, Subpart D; 21 CFR 50, Subpart D; and US Department of Education, Subpart D);

2.3.4.4 Research Involving Mentally Disabled Individuals [45 CFR 46.111(b)].

2.3.4.5 Research Involving University of Alabama students

2.3.4 Whether the participants should be reconsented at each study session.

2.3.5 Whether the consenting process should be observed.

2.3.6 Whether approval for one year is adequate or whether the project should be approved for less than one year, based on the nature of the research and the level of risk involved.

2.3.7 Whether the study should be flagged for post-approval monitoring based on the nature of the research and the level of risk involved.

2.3.8 The IRB will consider and deliberate each response indicated on the IRB application form applicable to research involving vulnerable subjects. IRB approval will also document that the IRB members acknowledge and agree with the description of all safeguards and risk assessments contained within the protocol as submitted by the Principal Investigator. ORC staff will document in the minutes, all discussions of controverted issues within IRB convened meetings.

2.3.9 ORC staff will document in the minutes, specific findings or IRB determinations in accordance with IRB policy. The IRB does not need to reconsider pre-determined subjects during subsequent reviews, unless changes to the protocol dictate otherwise.

3.0 REFERENCES

The Belmont Report

45 CFR 46: Subparts A, B, C, D

45 CFR 46.101, 46.115 (B), 45 CFR 46.111(b), 46.116, 46.122,

21 CFR 50: Subpart D 50.51, 50.52, 50.53, 50.54, 50.55, 50.56.

21 CFR 56.111

4.0 RELATED SECTIONS

4.1 FORM: Application for Research with Cognitively Impaired Persons

4.2 POLICY: Investigator Assurance of Participant Comprehension
4.3  **FORM:** Decision Making Capacity Assessment Tool

4.4  **GUIDANCE:** Alabama Law on Children, Minors, Consent, and Other Research-Related Topics

4.5  **GUIDANCE:** Investigators and Legally Authorized Representatives

4.6  Policies and forms on other vulnerable populations if prospects belong to more than one vulnerable group