

Clinical Research in the Non-Academic Setting

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What do we mean by “non-academic” site of service?

- **Facility unrelated to a university**
- **Typically a free-standing outpatient setting or small community hospital**
 - **Ambulatory Surgery Center (ASC)**
 - **Dialysis center**
 - **Independent Diagnostic Testing Facility (IDTF)**
 - **Physical therapy clinic**
- **Nominal interaction and communication with referring physicians (i.e., the PIs)**
- **Usually not the draw for the study sponsor**

Challenges

- **Few resources to dedicate to oversight of clinical research**
- **Often less experienced staff**
- **Generally not the PI so you have little to no involvement with sponsor or Clinical Research Organization (CRO) contract negotiations**
- **Limited access to information**
- **Not involved with patient consent process**

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Despite the challenges, these providers still must comply with all applicable laws and regulations related to the protection of human subjects, proper claims submission, and fraud and abuse.

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Responding to the Challenges

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Start asking questions – you will be amazed what you learn

- Is research being conducted at your sites?
- Who knows the research is taking place?
- What type of research?
 - Sponsor supported
 - Investigator-initiated
- How are the subjects recruited and enrolled?
- Are you obligated by contract or regulation for safety reporting?

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**Start asking questions –
you will be amazed what you learn**

- Do you know the financial impact on your facilities?
- Does your liability policy cover events related to clinical research?
- Does your facility have an adequate records retention policy that conforms with FDA regulations?
- Are your patient records being mined for subjects or clinical information?
 - Data licensing

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Build the Infrastructure

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1. Develop a Standard Process

First Steps to a Successful Program

- **Appoint a medical advisor and research coordinator to oversee the research program**
- **Decide what types of research your sites may participate**
- **Decide what types of services you are willing to provide to researchers or sponsors**
- **Develop an application and approval process to evaluate the scientific merit and patient safety aspects of proposed research projects, related obligations for the facility, and financial implications including overhead costs and reimbursement for services**

HealthSouth Research Definitions

- **Definitions from Regulatory Agencies**
- **Policy Definition** - For purposes of this policy, clinical research is defined as systematic investigation involving human subjects designed to develop or contribute to medical knowledge and/or ascertain the safety and/or efficacy of an investigational product. Such research activities can take many forms and may include the use of investigational (i.e. non-FDA approved) drugs, including biological drug products investigational or cleared medical devices, human cells, tissues, and cellular and tissue-based products (HCT/Ps) that are not regulated as drugs, biologics, or devices, such as corneal implants or processed human bone, FDA approved drugs or devices used in a non-approved manner, video taping and interviewing patients on physical activity (e.g. gait training, sport swings) and comparisons of devices, drugs, therapies, or treatments. Clinical research activities may also include student clinical research sponsored by a university or certain retrospective reviews of medical records to further medical knowledge (i.e. not for quality assurance, peer review, etc.).

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HealthSouth Research Exclusions

- Important from an awareness perspective that personnel can recognize clinical research type activities, even if not named as such
- Clinical research for the purposes of this policy does not include:
 - Normal, medically necessary treatment unrelated to a Clinical Trial (regardless of payor). For example: a normal medically necessary procedure is performed at a HealthSouth facility that is independent from experimental drug therapy being provided at the physician's office;
 - "Off-label" use of FDA-approved drugs, biologics and devices prescribed by a physician for the treatment of individual patients (i.e., not part of a study to contribute to medical knowledge and/or ascertain the safety or efficacy of the drug, biologic, or devices); or
 - Direct billing arrangements with clinical research sponsors or PIs for furnishing non-experimental procedures to participants of Clinical Trials. For example: CT scans before and after experimental surgery or endoscopy procedures before and after new drug therapies.

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HealthSouth Research Oversight

- **Corporate Level**
 - **Corporate Clinical Research Coordinator**
 - **Facilitator of policy defined process with site administration and corporate review**
 - **Interacts with sponsors depending on type of study**
 - **Clinical Research Review Committee**
 - **Representatives from Compliance (Billing and HIPAA), Risk Management (Insurance and Indemnification), Legal Services, and the Chief Medical Officer**
 - **No HealthSouth IRB**

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HealthSouth Research Oversight

- **Facility Level**
 - **Facility's Medical Executive Committee (MEC) - The MEC evaluates the project based on the clinical pertinence and safety to patients. This assessment considers the trial's phase (risk level). The MEC then makes its recommendation to the GB.**
 - **Facility Governing Body (GB) - In addition to the review findings and recommendations from the MEC, the GB will reviews the resources required to conduct the study, administrative considerations (including billing questions and considerations) related to the proposed research and the impact the proposed project will have on the facility's overall operations.**

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2. Negotiate the terms of your involvement

Evaluate the Financial Impact

- **Determine the “cost” of a research to your facility**
 - **Labor, supplies, administrative, other**
 - **Will you be responsible for any type of record-keeping or storage of study drug?**
 - **Will compliance with the protocol require additional output from your clinical staff?**
- **Determine whether the services provided by your facility are covered by the sponsor or payable by a third-party**
- **Determine if the research will lead to lost revenue for the facility**

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Financial Review Considerations

- **Billing Review – Investigator-initiated**
 - Not Applicable for retrospective studies
 - Key Questions include
 - Is treatment medically necessary and “standard of care”?
 - Would items / services needed for clinical research normally included on a detailed bill / claim?
 - If so who is the payer for these items / services for patient involved in clinical research?
 - Hospital vs. ambulatory surgery center
 - Is additional staff time, supplies, etc. required from the provider staff?

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Memorialize Relationships

- Enter into an agreement with PI, CRO or Sponsor that outlines clearly your facilities responsibilities, and more importantly, things for which you are not accepting responsibility by permitting research to be performed in your facility
- Have a model contract from which you negotiate
- Key provisions
 - Indemnification
 - Responsibility for safety reporting
 - Expectation to complete or retain trial documentation
 - Financials
 - Expectations for third-party reimbursement
 - Compensation for lost profits
 - Hiring of personnel during outside scheduled work hours

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Contract Considerations

- **Indemnification**
 - Standard contract available as part of policy
 - Risk Management and Legal review all non-standard clauses
 - May be waived (e.g. non-sponsored academic research)

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3. Create the Infrastructure

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Important Policies and Procedures

- Application Process
- Selection of investigators and conflicts of interest
- Safety reporting
- Identification and recruitment of subjects
- Coverage analysis and claim auditing
- Records retention
- Staff training
- Scientific misconduct
- Privacy and security of health information

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HealthSouth Application and Approval Process

- Focused on investigator initiated clinical research
 - Investigator Disclosure Agreement
 - Relationship to HealthSouth - employee, medical staff, student, other
 - Recruitment of Patients - Patient of PI, HealthSouth patient, Combination, HealthSouth medical record review only (preparatory and retrospective reviews)
 - IRB approval status
 - HIPAA Authorization / waiver status
 - If consent to be document, who (on PI side) will have responsibility to ensure a copy in the HealthSouth medical record
 - Claims submission to any third parties, particularly Medicare

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HealthSouth Application and Approval Process

- Investigator Disclosure Agreement (continued)
 - Drug or device usage
 - Indemnification
 - Use of HealthSouth name
 - Submission of Protocol
 - Submission of Informed Consent Document
 - Submission of HIPAA waiver or HIPAA authorization (may be part of informed consent)
 - Submission of IRB approval (with HealthSouth facility listed)

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HealthSouth Application and Approval Process

- Billing Questionnaire
 - Identification of Patients
 - Types of Treatment - Standard protocols, research required
 - Payors – Medicare, Commercial, Direct Billing to PI or sponsor
 - Costs of providing treatment
 - Additional staff time for research patients
 - Drug / Device – FDA approved, FDA approved for this purpose
- Other Information
 - Privileges

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Selection of Investigators and Conflicts of Interest

- **Set forth the criteria to be used in selecting and recommending potential investigators to sponsors of clinical trials, as well as factors to be considered when your facility consider involvement in investigator-initiated trials**
 - Has the proposed investigator been the subject of debarment or other disqualification action?
 - Has the investigator ever been the subject of misconduct allegations?
 - Include due diligence of investigator's staff to assist with the study on you premises
 - Review investigators financial relationship to the trial or other potential professional benefits that will inure to investigator
 - Anti-kickback analysis if the investigator is a referral source

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Safety Reporting

- **Set forth the general obligations for safety and adverse event reporting both during the trial and once the trial is terminated**
- **Identify the reporting hierarchy**
 - Designate person(s) responsible for reporting adverse events to investigator, sponsor or FDA, if required
 - Process for collection of documentation for IND Safety Reports

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HealthSouth Safety Reporting

- **Investigator Agreement requires PI to notify the Facility Administrator, Corporate Risk Management, and the CCRC within 48 hours of any serious adverse events, as defined in the research protocol, resulting from or during the course of treatment**
- **CCRC then coordinates response**

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Identification and Recruitment of Subjects

- **Establish standards for recruitment incentives and safe guards to be followed when recruiting current patients**
- **Must be consistent with or incorporate policies regarding accessing patient records for selection of subjects**
- **Should cover requirements for informed consent process, including how recruitment materials may be disseminated to patients and who may respond to patient questions**

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Recruitment of Subjects Considerations

- **Investigator Agreement should require information regarding how patients are to be recruited for participation in the trial**
 - Patient of PI
 - Current patient of Provider
 - Combination of both Provider and PI patients
 - Provider medical record review only (preparatory and retrospective reviews)

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Coverage Analysis and Claims Auditing

- **Require PIs to certify whether the study is registered with Medicare and consistent with the NCD**
- **Investigational Device Exemptions**
- **Every protocol should be analyzed to determine what services are coverable by a third-party payer, by the sponsor or not covered at all**
 - This should be an item by item analysis
 - Pay attention to labs and diagnostic tests
 - Will there be study drug involved, is there FDA permission to charge for the drug
- **Develop a form to communicate this information to every facility that will be treating patients enrolled in the trial as well as to all billing staff who will be involved in claims submission**
- **Sample of claims should be audited routinely to determine if the system is working**

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Example Coverage Analysis

- Scenario – non-FDA non-implantable device (i.e. equipment)

Is treatment medically necessary and “standard of care”?	Yes
Would items / services needed for clinical research normally included on a detailed bill / claim?	No, No separate charges for use of similar devices (i.e. is a supply inherent in the procedure)
If so who is the payer for these items / services for patient involved in clinical research?	N/A
Is additional staff time, supplies, etc. required from the provider?	No

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Example Coverage Analysis

- Scenario – non-FDA approved drug

Is treatment medically necessary and “standard of care”?	Yes
Would items / services needed for clinical research normally included on a detailed bill / claim?	No, No separate charges for use of similar drugs (i.e. is a drug required to perform the procedure)
If so who is the payer for these items / services for patient involved in clinical research?	Provider needs prior approval from Medicare / payor
Is additional staff time, supplies, etc. required from the provider?	No

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Example Coverage Analysis

- Scenario – treatment to be provided (e.g. physical therapy after knee implant)

Is treatment medically necessary and “standard of care”?	Treatment is medically necessary. Standard is x visits, Sponsor requires x+4 visits
Would items / services needed for clinical research normally included on a detailed bill / claim?	Yes
If so who is the payer for these items / services for patient involved in clinical research?	<ul style="list-style-type: none"> Payor pays for first x visits Sponsor pays for additional 4 visits Provider needs prior approval from Medicare / payor
Is additional staff time, supplies, etc. required from the provider?	No

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Example Coverage Analysis

- Scenario – Investigational Device Exemption (e.g. new intraocular lens)

Is treatment medically necessary and “standard of care”?	Treatment is medically necessary.
Would items / services needed for clinical research normally included on a detailed bill / claim?	Yes
If so who is the payer for these items / services for patient involved in clinical research?	<ul style="list-style-type: none"> Depends on if Sponsor or PI provides device or if Provider purchase Either way Provider should have prior approval from Medicare / payor
Is additional staff time, supplies, etc. required from the provider?	No

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Records Retention

- **Set forth how documents generated during the research approval process and during the clinical trial (both administrative and clinical) are handled**
- **Specify which records must be retained and for what period in order to meet all regulatory requirements**
 - **Pay attention to any record keeping responsibilities that may have been assigned by the sponsor or PI through the contract**
- **Procedures for the records to be audited by sponsors/clinical monitors**

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Record Retention Considerations

- **Simplest scenario is for Provider not to be the owner of the research record**
- **If not detailed instructions provided to Provider based upon contract requirements**

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Staff Training

- **Staff who likely are to be involved in the clinical research process should be required to participate in some basic training regarding research procedures, human subject protections, documentation and billing**
- **In-service training for all facility staff who may participate in specific study**
 - **Summary of the study**
 - **Procedures for documenting study related items and services and adjustments to claims**
 - **Documentation of adverse events**
- **Documentation of the training should be maintained**

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Staff Training Considerations

- **Recognition of clinical research activities**
- **Policy focused on how to get approved**
 - **HIPAA and billing considerations reviewed behind the scenes and detailed guidance given to the facility**

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Scientific Misconduct

- **Scientific misconduct compromises the integrity of research, but it also may place patients at risk and increase liability for an entity**
- **Policy should describe**
 - **Scientific misconduct**
 - **Procedures for reporting suspected misconduct**
 - **Methods for resolving issues**
 - **Disciplinary actions, including banning the perpetrator from conducting or participating in research at your facility in the future**

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Privacy and Security of Health Information

- **HIPAA Privacy and Security compliance programs should be reviewed to ensure they include policies and procedures related to research and accessing patient records in preparation of research**

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HIPAA and Research Considerations

- **Preparatory to Research**
 - Authorization,
 - HIPAA waiver,
 - PI representations – no removal, minimum necessary, no patient contact
 - If Provider, contract at FMV

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HIPAA and Research Considerations

- **Clinical Research Studies**
 - HIPAA Authorization – Informed Consent documentation may have required elements, if not consider providing pre-populated form
 - HIPAA Waiver – common where no patient contact is anticipated (e.g. retrospective medical record review). Because disclosure logs will be needed (either individual or special circumstances for > 50 subjects) consider providing pre-populated form

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Second Site Research Considerations

- **When the patient is enrolled in a study or clinical trial prior to coming to a facility for treatment, the facility should have a written policy that includes a pre-admission process for review and determination that includes:**
 - Review of the research protocol in relation to the facility's mission, values and other guidelines and weigh the relative risks and benefits to the research and appropriateness for treatment during subjects participation in the research protocol
 - Process in which the Facility Administrator or his/her designee will be responsible for obtaining the necessary information and forwarding the documentation to the central repository that has been established
 - If the research protocol or study involves an investigational medication, the facility must have written policies and procedures that specify the process for reviewing, approving, supervising and monitoring investigational medication use that are compliant with JCAHO requirements if applicable.

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Second Site Research Checklist

- **Copy of the Protocol**
- **Copy of the Signed Informed Consent**
- **Special Instructions to staff regarding protocol**
- **Indemnification Agreement**
- **Verification of privileges (if applicable)**
- **Pharmacy requirements (applicable to drug studies only)**

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