Intervention includes both physical procedures by which data are gathered (for example, venipuncture) and manipulations of the subject or the subject's environment that are performed for research purposes. *Interaction* includes communication or interpersonal contact between investigator and subject. *Private information* includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.

In order for a project to require IRB review, it must both be research and involve "human subjects." For more information, please review Office for Human Research Protections (OHRP) guidance at http://www.hhs.gov/ohrp/humansubjects/guidance/decisioncharts.htm#c1

The Defining Characteristic of Research Involving Human Subjects

The requirement that a research activity involves a systematic investigation is usually not difficult to apply. To develop a test to evaluate better the goal of developing or contributing to generalizable knowledge, it is useful to recognize that in the context of research that involves human subjects, the defining characteristic of research is that *a major goal of the activity is to learn something for the purpose of benefiting people other than the research subjects*. In some classes of research, the research subjects may directly benefit from research participation, but benefiting research subjects is never the only, and rarely the primary, goal of a research effort. The terms *innovative therapy* and *nonvalidated practice* describe activities that are designed solely to benefit an individual patient(s), but in which the ability of the activity to result in the desired outcome is to some degree unproven.

Publication of Results Does Not Define a Project as Research

To determine whether a project should be classified as research, some IRBs base institutional policy on the assumption that publication of results in a scientific journal defines a project as research. Project investigators are told that if they "hope to" or "might want to" publish results of their project in a medical journal or present some aspect of the project at an academic meeting, then the project involves research and should not be done without IRB approval. At some institutions, project investigators are told that if a project is or was done without IRB approval, then institutional policy prohibits them from publishing project results, as this would document noncompliance with federal research regulations. An information document from the Food and Drug Administration on Humanitarian Use Devices suggests that this approach to identifying research intent is not unique to the IRB community.[2]

The assumption that academic publication or presentation equals research is incorrect. Publication or presentation of results is clearly the goal of all research activity, but there are many situations in which academic forums are used to share the results of a nonresearch activity with interested colleagues in the hope that they will benefit from this information. Medical journals often contain articles that discuss information that is not the result of research activity, and the same is true with medical meeting agendas.[3,4,5] *Education*, not *research*, is the most accurate term for these kinds of activities. It is appropriate to inform project investigators that nonresearch activities can be published, but it is necessary to remind them that the word *research* cannot be contained within the publication. If *research* is used to describe the project, IRB review is required, and journal editors may inquire about the status of IRB review.

Would you conduct this project as planned if you knew you would never receive any form of academic recognition for it?

To classify projects accurately as either research or nonresearch, a critical factor may be the extent to which the project is being conducted to benefit people other than those who will participate directly in the activity. In our experience, questions about the publication or presentation of results in an academic forum are the most useful way to evaluate research intent, but the focus of the question should be different than as described previously here.

The important question is not whether the project investigator might want to publish or present results in the future, but rather if the project would be done as planned if academic recognition is definitely not a possibility. Our recommendation is that the IRB use the following question to determine whether a project that involves a systematic investigation and is likely to develop generalizable knowledge should be classified as research from the regulatory standpoint:

Would this project be conducted as proposed if the project investigator knew that he or she would never receive any form of academic recognition for the project, including publication of results in a medical journal or presentation of the project at an academic meeting?

If prohibition from receiving any form of academic recognition for the project would affect the conduct of the project in any way, then research is a motive for the activity to a degree that the project should be classified as research from the regulatory standpoint.

Quality Improvement (QI) Is Not Research

A variety of nonresearch methods (described later here) exist; however, the distinction between QI and research is most often at the forefront of discussions of "intent." When an activity is specifically initiated with a goal of improving the performance of institutional practice in relationship to an established standard, the activity is called QI.

If a project is originally initiated as a local QI project but the findings are of interest and the project investigator chooses to expand the findings into a research study, IRB review is required at that time. The project investigator

turned researcher should clearly indicate to the IRB that the data were originally collected as part of a QI project. The IRB should be prepared to handle this type of review and take the next steps as required of all research projects (e.g., designation of exempt, expedited or full-committee-review, level of consent required).

At our site, after the institutional discussion was commenced related to the definition of research, the IRB developed a close working relationship with the institutional QI committee. The goals for the QI evaluators and the IRB are similar. The QI evaluators want QI projects to be performed with a high standard to protect confidentiality and to ensure that results are applicable. It is important for both entities to know when their review is applicable to a project.

In order to distinguish research from QI, we use the following criteria:

- Primary intent—the intent should be clear in the purpose/aim statement for the specific project. In general, QI projects are aimed at improving local systems of care (nongeneralizable). If the intent is to promote "betterment" of a process of care, clinical outcome, etc., then the project may be considered quality improvement.

If any of the following criteria are met, then the project receives consideration as to whether IRB review is required:

- Generalizability—if the primary intent of the project is to generate generalizable results
- Additional risk or burden—if the project will impose risks or burdens beyond the standard of practice to make the results generalizable
- Design—if a project involves randomization or an element that may be considered less than standard of care

Additional Notes

a. Federal regulators have made it clear that any publication describing a project as "research" must have received prior IRB review and approval. Therefore, projects determined to be QI initiatives should not be published as "research."
b. Projects considered QI must also maintain the highest integrity of confidentiality possible.
c. Characterizing a project as QI does not necessarily negate the need for informed consent.

Informed Consent

HIPAA allows projects conducted within a covered entity with the intent of obtaining information related to treatment, payment, or health care operations to be conducted without additional patient authorization. Patients should be made aware of these uses of their data via the privacy notice required by HIPAA. A QI project may be appropriately initiated without patient authorization or consent; however, consideration must be given to whether or not health care workers should be aware of and possibly required to consent to the project. These are decisions that must be well thought out by the initiators of the quality improvement teams at the institution.

Research is not covered under the HIPAA "treatment, payment, or health care operations" exemptions, and therefore, if research is being conducted, the requirements for waiving informed consent and/or waiving the requirements for documentation of informed consent must be met. These regulations are described in more detail in other chapters of this book.

Other Activities That Are Not Research

To understand when a project should be classified as research, it is important to understand the major categories of activities that may be appropriately classified as something other than research.

Quality Assessment

Activities that are designed to determine whether aspects of medical practice are being performed in line with established standards are called QA.

Quality Assurance

In New Hampshire, this term is used for the specific instance of the process of reviewing, analyzing, or evaluating *patient and/or provider specific data* that may indicate (the need for) changes in systems or procedures that would improve the quality of care. The analysis is protected from legal discoverability, and the review is often triggered by predetermined "thresholds/criteria." This analysis must be conducted with a specific committee structure. The knowledge generated is typically for local, immediate application.

The Case Report or Case Series

A physician requests access to her patient's medical record to prepare a "case report" for publication in a medical journal. The first step is to determine whether the project contains both of the elements from the regulatory definition of research (a systematic investigation and the intent to contribute to generalizable knowledge). In our opinion, it is not reasonable to suggest that the organization of information for a case report constitutes a systematic investigation to the extent that would be expected of a research project. Because the first element of the regulatory definition of research is not present, this project is not research and, therefore, is beyond the regulatory authority of the IRB. In our opinion, this kind of case report project is most appropriately classified as an educational activity. Care should be taken, however, to distinguish a case report from an "N-of-1" research study in which there is systematic manipulation of an intervention to produce generalizable results.

When discussing the classification of case-report projects, many people ask whether the inclusion of more than one patient requires that the project be classified as research. In our opinion, the number of patients is not a defining factor. Educational activities often involve discussion of the course of a group of patients. It is the use of statistical method such as subgroup comparisons and test for prognostic factors that are the distinguishing features of a systematic investigation. In the absence of the basic elements of a systematic investigation of a scientific question, the case-report project should be classified as an educational activity rather than research, regardless of the number of patients that form the basis for the discussion.