Informed Consent in Research in Japan: A Case for Broad Consent

Addendum: I regret I could not give adequate explanations in response to the questions posed after my presentation in Bali Convention Center on August 22, 2014. Supplemental slides containing additional information are now in preparation and soon will be uploaded here. Thank you.

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Requirement of Informed Consent

In Japan, like many other countries, the doctrine of informed consent has been firmly established in clinical practice and research.

In the case of research, the investigator, in advance of conducting research involving human subjects or using human biological specimens and accompanying data, must obtain informed consent from the participants or contributors.

It is often emphasized that, prior to giving consent, potential subjects should be given specific information concerning the nature, aims and risks of the intended research.

Left-over Specimens or Biobank Specimens

However, in the case of

(1) research utilizing specimens left over after preceding research or laboratory tests, or

(2) research utilizing specimens collected from body parts removed for therapeutic purposes, or

(3) research using specimens donated to biobanks

it is difficult to give specific information regarding individual research in the stage of specimen collection.

How to cope with the specificity requirement?

To cope with the situation, many suggestions have been proposed.

Among them, two proposals seem practically significant:

One is broad consent to their use for unspecified medical research by unspecified investigators; and

The other is waiver of consent requirement by the research ethics committee (REC), where certain requirements are met.

Broad Consent: The Pros

Many commentators support the validity of the broad consent on the basis that:

As long as the participant or patient can understand the significance and accompanying risks of giving broad consent and are accorded the right to repudiate consent afterward, they should be free to waive their right to determine whether to allow research use of their body parts on an individual basis .

Most donors and patients would not object to it, as long as no detriment will accrue and approval of ethics committee is required of the research using these specimens.

Broad Consent: The Cons

Others cast doubt on its validity on the ground that:

In order to effectively waive the informed consent, donors and patients should have some degree of specific notion about what they are waiving, whereas they have little knowledge about how their specimens will be treated in research.

Waiver of informed Consent by REC

Japanese ethical guidelines provide for waiver of informed consent for research use of existing or stored specimens.

The Ethical Guidelines for Epidemiological Research (article 4, section 2, subsection 2) and

The Ethical Guidelines for Clinical Research (EGCR) (article 5, section 1, subsection 2) essentially provide as follows:

*Where investigators intend to use human biological specimens collected prior to the start of research, they should, in principle, secure consent ***. If securing consent is impracticable, investigators may use specimens without consent, when the institution head grants permission, after the ethics review committee confirms that one of the following conditions has been met:*

Waiver of informed Consent by REC

1) Specimens have been anonymized or coded with link information unavailable to investigators.

3) Where 1) and 2) are inapplicable, all of the following conditions are met:

A. Information of the research, including the aims of use of specimens, is made public.

B. Arrangement has been made to give the people, from whom specimens have been collected, the opportunity to opt out from the research.

C. There is a strong necessity for conducting the research, for the improvement of public health, and it is difficult to secure consent from the persons from whom specimens have been collected.

Author's Opinion

The author is of the opinion that broad consent is effective in legitimatizing research if the following conditions are met:

1) Donors or former patients are given the right to revoke their consent and opt out from the research;

2) Personal information is securely safeguarded and there is no risk of injury occurring to them; and

3) Efficient mechanisms are instituted for multi-layered information dissemination about research using those specimens and data, such as on Internet website, so that participants will be able to obtain information according to their informational needs.

Rationale

The above scheme of broad consent is superior to the scheme of waiver of informed consent requirement, because:

Information sharing tends to become possible at an earlier stage.

Rationale

In the case of research use of removed or left-over body parts and accompanying medical data obtained in the clinical settings, patients, when invited to give broad consent to their research use at their start of clinical relationship, can obtain some notion that if they consent, their parts and data will be used for research and may help medical advancement.

If the patient happens to be interested in the research using her/his body parts or data, she/he can turn to the Internet website of the hospital and obtain the information about them according to her/his interest and necessity.

Rationale

In the case of research using remaining specimens after the preceding research, the participant, in the course of informed consent to her/his enrollment in the first research, can envision the possibility of other research using them.

With the availability of information about research using her/his own specimens and data, her/his right to opt out will become more meaningful. This will contribute to increase in the transparency of medical research and eventually this increased transparency will translate into better relationship of patients/participants and investigators.

Items that cannot be specified

Actually, even in broad consent settings, items that cannot be specified are not many: they are limited to:

- Individual study plan to be conducted using those specimens, and
- Investigators (and their affiliations) or
- Research institutions

  to conduct study using those specimens.

Elements that can be specified

- Regarding the other elements, specific information can be given to the patients or participants (although, the degree of specificity may be different).

(I) What will be collected?

(1) What kinds of specimens and information will be collected, such as

- Biospecimens (organ, tissue, cell and body fluid, etc.)
- Health information (clinical information, family history, etc.)
- Information of environmental factors
- Information to be used for follow-up of participants (death certificate, resident registration information, etc.)

Elements that can be specified

(2) Scope of specimens and information that will be collected, such as

- Scope to be specified by the place (such as hospital or clinic) where those specimens and information will be collected
- Scope to be specified by the project or program (such as biobank or cohort study project, etc.) in which those specimens and information will be collected.

(3) Entity who will collect specimens and information.

(4) Timespan of the collection.

(5) Whether the research use of them is primary purpose of collection or secondary to the use for treatment and/or testing?

Elements that can be specified

(II) How the specimens and information will be used?

(1) Will they be anonymized (unlinked), coded, or remain identified?

(2) Will the use of them be limited to investigators of non-profit organizations or allowed also to investigators of commercial organizations?

(3) Will they be used in research conducted outside the country?

(4) Whether whole genome/exome sequencing is planned or anticipated?

(5) Whether immortalization of cells is intended?

Elements that can be specified

(II) How the specimens and information will be used? (cont'd)

(6) Whether personal disclosure of individual processing of specimens and data is available to the participants or contributors?

(7) Whether personal disclosure of individual results and findings of research using them is available to the participants or contributors?

(8) To whom shall the intellectual property right and economical interests derived from the research using them belong?

Elements that can be specified

(III) The policy on their treatment in the case of revocation of informed consent.

(IV) The policy on their treatment in the case of death, dissolution, merger or acquisition, or succession of the collecting entity.

(V) The policy on their preservation or destruction:

Will they stored for a definite/undetermined/indefinite period of time?

How will they be disposed of after the expiration of the period?

How the change of policy will be conveyed to the participants?

Information Disclosure/Dissemination

Those elements that can be particularized should be specified and clarified to patients or participants in the process of informed broad consent.

As to the items difficult to be specified at the time of collection, the means of disclosure or dissemination, such as the Internet website, of information about elements to be specified later should be indicated to them at the time of informed consent. The multi-layered system that I proposed for the purpose of information dissemination about research using their specimens and data can also be used for conveying these information.

Information Disclosure/Dissemination

The introduction and administration of multi-layered information dissemination system may impose extra burden on investigators and research institutions, but information sharing, according to the individual's informational needs, seems accord well with the first norm of biomedical research, namely, respect for the person.

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