

DEPARTMENT OF THE ARMY
MEDICAL DEPARTMENT ACTIVITY
Fort Huachuca, Arizona 85613-7079

MEDDAC Memorandum
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Medical Services
HEALTH INFORMATION PRIVACY

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1. HISTORY. This is a revision of this publication.

2. PURPOSE. This policy is designed to provide guidance and ensure compliance with all relevant laws and regulations when using or disclosing PHI.

3. SCOPE. This document applies to all personnel (Active Component, Reserve Component, civilian employees, contract personnel, and American Red Cross volunteers) who work for the Raymond W. Bliss Army Health Center (RWBAHC) or its affiliate organizations.

4. REFERENCES. See Appendix A

5. DEFINITIONS.

5.1 PHI is individually identifiable health information, including demographic information that is transmitted orally, on paper, or electronic form. This term also relates to the past, present, or future health of an individual; the provision of health care to the individual; or payment for health services received by an individual.

*This MEDDAC Memorandum supersedes MEDDAC MEMO 40-174, dated 18 Jan 2011

5.2 Use: refers to internal utilization of PHI.

5.3 Disclosure refers to the dissemination of information outside healthcare network.

6. POLICY. RWBAHC is committed to:

6.1 Protect patient confidentiality and maintain integrity and security during the collection, aggregation, analysis, storage, and destruction of protected health information, without disrupting the provision or quality of health care.

6.2 Enforce the rights of patients with respect to health information privacy.

6.3 Designate appropriate representatives to carry out privacy functions in accordance with applicable federal and state laws and regulations.

6.4 Incorporate parameters to monitor and improve compliance with health information privacy standards in the design of the organizational compliance program.

7. PROCEDURES.

7.1 Notice of Privacy Practice. All patients will be provided a copy of, or have ready access to, the Military Health System's (MHS) official Notice of Privacy Practice (NoPP) at Appendix B. The Military Health System NoPP, provides a comprehensive description of RWBAHC's probable uses and disclosures of PHI, legal duties and the patient's rights with respect to PHI. As patient's access care and services at RWBAHC, designated staff will make every attempt to record patient's acknowledgement to receipt of the NoPP. Procedures for capturing patient signature to acknowledge receipt of the NoPP are outlined at Appendix B.

7.2 Workforce Training. The success of RWBAHC's commitment to meet all standards of health information privacy will depend on how well employees, contractors, volunteers, trainees, and business associates understand what they can and cannot do under the applicable rules. As required by law, all RWBAHC workforce members will complete, at least annually, required training on health information privacy standards, including RWBAHC policies and procedures for using and/or disclosing PHI, as applicable to job function. Newly assigned personnel will complete training within 30 days of arrival and prior to being granted access to PHI.

7.3 Use of PHI. All workforce members will be familiar with the type of information protected under the laws and regulations referenced in this document. When

uncertain, personnel may contact Patient Administration (PAD) for guidance. The highest standards of confidentiality and security will be observed among colleagues or coworkers during the exchange, application, utilization, examination, or analysis of PHI. As governed by State and Federal laws, the use of PHI among RWBAHC employees will be limited to accomplishment of Medical Treatment, Payment, and/or Health Care Operations (TPO). In the course of accomplishing TPO, personnel will make reasonable efforts to limit use of PHI to the minimum necessary to accomplish the intended purpose.

7.4 In all cases and circumstances, the personnel disclosing and receiving protected health information must have the required authority to disclose or receive the information with respect to the individual(s) whom the information pertains and the purpose for the disclosure. All RWBAHC employees will comply with the procedures and requirements for disclosure of PHI. Personnel will make reasonable efforts to limit disclosure of PHI to the minimum necessary to accomplish the intended purpose. Any authorization for the use or disclosure of protected health information requested by the individual subject of that information will contain the following:

7.4.1 a description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

7.4.2 the name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;

7.4.3 the name or other specific identification of the person(s), or class of persons, to whom RWBAHC may make the requested use or disclosure;

7.4.4 an expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;

7.4.5 a statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke;

7.5 Business Associate. The success of RWBAHC's commitment to meet all standards of health information privacy will also depend on the commitment of our external business agents to comply with our requirements to protect patient privacy. RWBAHC personnel will establish in writing (i.e., contracts, MOU, MOA) all business relations involving the use of PHI in writing, except activities to conduct TPO. All relevant business agreements involving PHI will include required terms to define RWBAHC's responsibilities for protecting patient privacy. The agreements must also establish satisfactory assurances that the business associate will:

7.5.1 use the information only for the purposes for which it is intended;

7.5.2 safeguard the information from misuse; and help RWBAHC comply with its duties under the prevailing laws.

7.6 Patient Rights. All personnel will adhere to the procedures established to facilitate the rights of individuals regarding their PHI. These rights and related procedures include:

7.6.1 the right to adequate notice of the uses and disclosures of PHI made by RWBAHC personnel see; Appendix B

7.6.2 The right to request (but not necessarily be granted) restrictions on the use and disclosure of PHI will be submitted on a DD Form 2871, Request to Restrict Medical or Dental Information.

7.6.3 the right to request (but not necessarily be granted) confidential communications by alternative means/at an alternative location

7.6.4 the right to access their PHI 7.6.5 the right to amend PHI

7.6.6 the right to an accounting of certain disclosures of PHI

7.6.7 the right to complain to the RWBAHC Commander and to the Department of Health and Human Services (HHS) of any violations of privacy rights.

7.6.8 Monitoring Compliance. The tasks and responsibilities of the privacy functions are incorporated in the Organizational Inspections Program. Designated Departments, Sections, and Offices will maintain required documentation and files to show compliance with the applicable privacy function. The goals of the RWBAHC health information privacy program are:

7.6.8.1 the goal is 98% workforce to be trained. The two percent difference allows for the personnel in the current birth month. (OTSG/MEDCOM Policy 09-080, dated 6 October 2009). And

7.6.8.2 All RWBAHC personnel are responsible to make individual contributions to the successful achievements of these goals through diligent compliance with all standards and procedures.

7.7. Sanctions. Personnel who fail to comply with RWBAHC privacy policies and procedures are subject to appropriate sanctions and corrective actions.

8. RESPONSIBILITIES.

8.1 Commander will: Establish and enforce policies and procedures that promote compliance in staff behavior and in the work environment consistent with health information privacy standards.

8.2 Deputy Commanders will:

8.2.1 ensure subordinate staff is trained on time and according to OTSG and or applicable local policy.

8.2.2 ensure subordinate staff establish and execute health information privacy safeguards as directed in this policy and referenced documents

8.2.3 ensure due process for investigations of privacy violation complaints and application of sanctions.

8.3 Legal Council will:

8.3.1 provide legal interpretation and guidance related to the contents and application of this policy with respect to Federal and State laws governing health information privacy.

8.3.2 provide guidance to ensure due process for investigations of privacy violation complaints and application of sanctions.

8.4 All Department and Division, Chiefs will:

8.4.1 at least annually, conduct informal, observation based risk assessments and consistently monitor internal policies, procedures, mechanisms and personnel behavior to ensure compliance with the provisions outlined in this policy, and reference laws and regulations.

8.4.2 instill a conscious vigilance among employees to minimize PHI exposure risk during the course of daily operations by disclosing the minimum data possible, only that which is needed for job critical purpose, to the fewest people possible.

8.4.3 enforce the use of the Patient Administration Division, Correspondence Section, as the sole authority and clearinghouse for release of PHI, except for treatment, payment, and health care operations.

8.5 Operations Division will, track and report status of workforce required training on health information privacy standards.

8.6 Chief, Human Resources will:

8.6.1 disseminate the duty requirements and personnel management implications of the Health Information Privacy laws to the Fair Labor /Union Officials.

8.6.2 ensure due process for investigations of privacy violation complaints and application of sanctions.

8.7 Chief, Resource Management will establish internal controls for ensuring all business agreements, understandings, contracts, or other affiliations involving the use of PHI are established in writing and incorporate appropriate terminology to ensure the protection of patient privacy.

8.8 Chief, PAD will:

8.8.1 persistently disseminate the mission and responsibility of the Correspondence Section as the sole authority and clearinghouse for release of PHI, except TPO.

8.8.2 execute assigned privacy functions as directed in this policy.

The proponent of this publication is the Patient Administration Division. Users are invited to send comments and suggestions for improvement to: Commander, USA MEDDAC, ATTN: MCXJ-PA, FT HUACHUCA, AZ 85613.

FOR THE COMMANDER:

OFFICIAL

ANDREW J. HARTMAN
MAJ, MS
Deputy Commander of Administration

DISTRIBUTION: E

APPENDIX A
REFERENCES

1. Department of Defense (DoD) 6025.18-R, DoD Health Information Privacy Regulation
2. Army Regulations (AR):
 - 2.1 AR 385-10, The Army Radiation Safety Program
 - 2.2 AR 15-185, Army Board for Correction of Military Records
 - 2.3 AR 25-1, Army Knowledge Management and Information Technology
 - 2.4 AR 25-55, The Department of the Army Freedom of Information Act Program
 - 2.5 AR 27-20, Claims
 - 2.6 AR 40-1, Composition, Mission, and Functions of the Army Medical Department
 - 2.7 AR 40-3, Medical, Dental and Veterinary Medicine Care
 - 2.8 AR 40-5, Preventive Medicine
 - 2.9 AR 40-7, Use of US Food and Drug Administration-Regulated Investigational Products in Humans Including Schedule I Controlled Substances
 - 2.10 AR 40-13, Medical Support – Nuclear/Chemical Accidents and Incidents
 - 2.11 AR 40-31, Armed Forces Institute of Pathology and Armed Forces Histopathology Centers
 - 2.12 AR 40-38, Clinical Investigation Program
 - 2.13 AR 40-57, Armed Forces Medical Examiner System
 - 2.14 AR 40-66, Medical Records Administration and Health Care Documentation
 - 2.15 AR 40-68, Clinical Quality Management

- 2.16 AR 40-400, Patient Administration
- 2.17 AR 50-5, Nuclear Surety 2.18 AR 50-6, Chemical Surety
- 2.19 AR 621-1, Training of Military Personnel at Civilian Institutions
- 2.20 AR 340-21, The Army Privacy Program
- 2.21 AR 351-3, Professional Education and Training Programs of the Army Medical Department
- 2.22 AR 600-8-1, Army Casualty Program
- 2.23 AR 600-85, Army Substance Abuse Program
- 2.24 AR 600-110, Identification, Surveillance and Administration of Personnel Affected with Human Immunodeficiency Virus (HIV).
- 2.25 AR 601-210, Active and Reserve Components Enlistment Program
- 2.26 AR 608-18, The Army Family Advocacy Program
- 2.27 AR 608-75, Exceptional Family Member Program
- 2.28 OTSG/MEDCOM Policy 09-080, dated 6 October 2009
- 2.29 Military Health System Notice of Privacy Practices (NoPP)
<http://www.tricare.mil/tma/privacy/hipaa-nopp.aspx>
- 2.30 45 Combined Federal Regulations (CFR) PART 164 Privacy Rule
<http://www.tricare.mil/tma/hipaa/privacy.aspx>
- 2.31 The Joint Commission on Accreditation of Healthcare Organizations (TJC) Accreditation

APPENDIX B
NOTICE OF PRIVACY PRACTICES (NoPP)

1. The Health Insurance Portability and Accountability Act (HIPAA) of 1996 was established to: Improve portability and continuity of health insurance coverage; improve access to long term care services and coverage; and simplify the administration of health.

2. The HIPAA Privacy Rule became effective 14 April 2003. Under HIPAA privacy rules, the Military Health System (MHS) is required to inform their patients about how their personal health care information is used, provide guidance to the patients regarding their privacy rights, and limit use and disclosure of their personal health care information to the minimum required. Permissible uses of health care information include treatment, payment for services provided and operations such as patient billing or appointment scheduling. All other disclosures must be documented and accountable on a comprehensive database.

3. Historical: To increase beneficiary awareness regarding these new privacy rules, in 2003, TriWest Healthcare Alliance mailed a copy of the MHS Notice of Privacy Practices (NoPP) to each TRICARE sponsor listed as eligible in the Defense Enrollment Eligibility Reporting System.

4. Currently, beneficiaries will be asked to acknowledge receipt of the privacy notice during their first scheduled appointment at their local military treatment facility (MTF).

5. Responsibilities:

5.1 Outpatient Records Staff will affix acknowledgement labels on medical records:

5.1.1 that is pulled for clinic appointments. The MSA'S located at each clinic are responsible. When the patient reports to the clinic front desk, front desk will ask the patient to sign the HIPAA and NoPP acknowledgement.

5.1.2 for patients presenting to the Outpatient Records front counter. Once label is affixed the patient will be asked to sign the acknowledgement. For patients not having received a NoPP, a copy will be provided to them.

5.2 RWBAHC front desk staff will check the back of the medical record to see if the NoPP acknowledgement label has been affixed and signed.

5.2.1 if the patient has signed the NoPP acknowledgement label, the clinic personnel will continue processing the patient for the clinic appointment or service as per internal clinic/ service operating procedures.

5.2.2 if the patient has not signed the NoPP acknowledgement label, ask the patient whether he/she has received the NoPP:

5.2.2.1 if the patient has received the NoPP, ask the patient to fill out and sign the NoPP acknowledgement label. If the patient refuses to sign, check declination box on label and initial where indicated. If not already positioned on the record, place the label in the center of the back outside cover of the record jacket. NOTE: If the outpatient medical record is not available at the time of the appointment, clinic personnel will place signed labels into an Interdepartmental Delivery "shotgun" envelope labeled "HIPAA NoPP" and deliver the envelope to the Outpatient Medical Record Section daily at the close of clinic business. Continue processing the patient for the clinic appointment or service as per internal clinic/service operating procedures.

5.2.2.2 if the patient has not received the NoPP, give a copy of the NoPP to the patient. Once accomplished, follow procedures delineated above in paragraph 4.2. All clinics will maintain a stock of NoPPs in the English and Spanish languages, thereafter. Several other foreign language versions of the NoPP are also available from the Tricare Management Activity (TMA) website at <http://www.tricare.mil/tma/privacy/hipaa-nopp.aspx#>.

APPENDIX C
DISCLOSING PROTECTED HEALTH INFORMATION

1. General provisions:

1.1 RWBAHC will obtain a signed authorization from all individuals before using or disclosing their protected health information for purposes other than treatment, payment or health care operations.

1.2 Prior to all marketing communications, RWBAHC will obtain authorization from the individuals who would receive such communications, except if:

1.2.2 the communication is made face-to-face by an employee of RWBAHC; or

1.2.3 the communication is a promotional gift of nominal value provided by RWBAHC.

1.3 Prior to any use or disclosure of psychotherapy notes, including for treatment, payment or health care operations, RWBAHC will obtain authorization from the individual, except if the use or disclosure is for:

1.3.1 the treatment activities of the originator of the psychotherapy notes;

1.3.2 RWBAHC's own training programs in which mental health students, trainees or practitioners practice, under supervision, their skills in counseling; or

1.3.3 RWBAHC's own defense in a legal action or other proceeding brought by the individual.

1.4 RWBAHC is not required to obtain authorization for the following purposes:

1.4.1 to carry out treatment, payment or health care operations;

1.4.2 uses and disclosures required by law;

1.4.3 uses and disclosures for public health activities;

1.4.4 disclosures about victims of abuse, neglect or domestic violence;

1.4.5 uses and disclosures for health oversight activities;

1.4.6 disclosures for judicial and administrative proceedings;

1.4.7 disclosures for law enforcement purposes;

1.4.8 disclosing PHI about decedents;

1.4.9 uses and disclosures for cadaveric organ, eye or tissue donation purposes;

1.4.10 uses and disclosures for research purposes;

1.4.11 uses and disclosures to avert a serious threat to health or safety;

1.4.12 uses and disclosures for specialized government functions; and

1.4.13 disclosures for workers' compensation.

1.5 The authorization will be written in plain language.

1.7 The authorization document will allow individuals to request that their protected health information be used or disclosed for specific purposes.

1.8 When RWBAHC initiates an authorization to use or disclose protected health information for its own purposes, RWBAHC will provide individuals with any facts they need to make an informed decision as to whether to allow release of the information.

1.9 The authorization will not be combined with another document to create a compound authorization, unless:

1.9.1 the other document is a similar such authorization;

1.9.2 if the authorization is for the disclosure of psychotherapy notes, the other document is also an authorization for the disclosure of psychotherapy notes; or

1.9.3 the authorization is for the use or disclosure of protected health information created for a research study, and is to be combined with another written permission for the study.

1.10 Any authorization for the use or disclosure of protected health information requested by the individual subject of that information will contain the following:

1.10.1 a description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

1.10.2 the name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;

1.10.3 the name or other specific identification of the person(s), or class of persons, to whom RWBAHC may make the requested use or disclosure;

1.10.4 an expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;

1.10.5 a statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke;

1.10.6 a description of how the individual may revoke the authorization;

1.10.7 a statement that the entity will not condition treatment, payment, enrollment in a health plan, or eligibility for benefits on the provision of an authorization, except as permitted by law.

1.10.8 a statement that information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient and no longer be protected by 45 C.F.R. Part 164;

1.10.9 the signature of the individual and date.

1.10.10 In the event that the authorization is signed by a personal representative of the individual, the authorization will contain a description of the representative's authority to act for the individual.

1.11 RWBAHC will provide the individual with a copy of the signed authorization. 1.12 RWBAHC will invalidate the authorization if:

1.11.1 any material information in the authorization is known by RWBAHC to be false;

1.11.2 the requirements of the authorization have not been filled out completely;

1.11.3 the expiration date has passed or the expiration event is known by RWBAHC to have occurred.

1.12 RWBAHC will document and retain the signed authorization for a period of at least six years from the date of its creation or the date when it last was in effect, whichever is later.

2. DISCLOSING PROTECTED HEALTH INFORMATION ABOUT DECEDENTS

2.1 RWBAHC may disclose protected health information about a deceased person, without individual authorization, to coroners, medical examiners, or funeral directors for the following purposes:

2.1.1 identifying a deceased person, determining a cause of death, or other duties as authorized by law; and

2.1.2 to assist funeral directors in carrying out their duties with respect to the decedent including, if necessary, disclosing protected health information prior to, and in reasonable anticipation of, the individual's death.

2.2 If RWBAHC performs the duties of a coroner or medical examiner, RWBAHC may use protected health information for the purposes stated above.

2.3 PAD Correspondence personnel receiving a request from an individual or entity for use or disclosure of protected health information will utilize a DA Form 2870, Authorization for Disclosure of Medical or Dental Information or a DA Form 4254, Request for Private Medical Information (for third party request) when possible to determine whether the requesting individual is a person with whom RWBAHC has a knowing relationship.

2.4 Personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting protected health information.

2.5 Once it is determined that use or disclosure is appropriate, Patient Administration Department (PAD) Correspondence personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

2.6 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

2.7 PAD personnel will appropriately document the request and delivery of the protected health information.

2.8 In the event that the identity and legal authority of an individual or entity requesting protected health information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer in a timely manner.

2.9 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

3. DISCLOSING PROTECTED HEALTH INFORMATION ABOUT VICTIMS OF ABUSE, NEGLECT, OR DOMESTIC VIOLENCE

3.1 RWBAHC may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence:

3.1.1 if the individual agrees to the disclosure (communication between RWBAHC and individual, including agreement, will be in writing

3.1.2 to the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law; or

3.1.3 to the extent the disclosure is expressly authorized by statute or regulation and:

3.1.3.1 RWBAHC, in the exercise of professional judgment, believes the disclosure to be necessary to prevent serious harm to the individual or other potential victims; or

3.1.3.2 if the individual is incapacitated and unable to agree to disclosing their protected health information, a law enforcement or public official authorized to receive the report represents that the protected health information, for which disclosure is sought, is not intended to be used against the individual, and that immediate enforcement activity is dependent upon the disclosure and would be adversely affected by waiting until the individual is able to agree to the disclosure.

3.2 If RWBAHC discloses protected health information about an individual, in accordance with above conditions, RWBAHC will promptly inform the individual, that such a disclosure has been or will be made except when RWBAHC:

3.2.1 in the exercise of professional judgment, believes informing the individual would place him/her at risk of serious harm; or

3.2.2 would be informing a personal representative, and RWBAHC reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by RWBAHC in the exercise of professional judgment.

3.3 RWBAHC will report child abuse or neglect without restriction to the public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect.

3.4 Personnel receiving a request from an individual or entity for use or disclosure of protected health information will utilize PAD Correspondence personnel to determine whether the requesting individual is a person with whom RWBAHC has a knowing relationship.

3.5 Personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting protected health information.

3.6 Once it is determined that use or disclosure is appropriate, PAD Correspondence personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

3.7 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

3.8 PAD Correspondence personnel will appropriately document the request and delivery of the protected health information.

3.9 In the event that the identity and legal authority of an individual or entity requesting protected health information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer in a timely manner.

3.10 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

4. DISCLOSING PROTECTED HEALTH INFORMATION FOR PUBLIC HEALTH RELEASE

4.1 RWBAHC may disclose protected health information to a public health authority that is authorized by law to collect or receive such information (or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority) for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to the reporting of:

4.1.1 disease;

4.1.2 injury;

4.1.3 vital events such as birth or death; and

4.1.4 the conduct of public health surveillance, public health investigations, and public health interventions.

4.2 RWBAHC may disclose protected health information to a public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect.

4.3 RWBAHC may disclose protected health information relating to a product or service regulated by the Food and Drug Administration (FDA), to a person subject to the jurisdiction of the FDA in order to assist such person in activities to ensure the quality, safety or effectiveness of such product or service.

4.4 RWBAHC may disclose protected health information to a person who may have been exposed to a communicable disease; or may otherwise be at risk of contracting or spreading a disease, if RWBAHC or a public health authority is authorized by law to notify such person in the conduct of a public health intervention or investigation.

4.5 RWBAHC may disclose protected health information to an employer about an individual who is a member of the employer's workforce if RWBAHC either provides health care to the individual at the request of the employer; or is a member of the employer's workforce:

4.5.1 to conduct an evaluation relating to medical surveillance of the workplace; or 4.5.2 to evaluate whether the individual has a work-related illness or injury; or

4.5.3 If the protected health information that is disclosed consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance;

4.5.4 If the employer needs such findings in order to comply with its obligations, under 29 CFR parts 1904 through 1928, 30 CFR parts 50 through 90, or under state law having a similar purpose, to record such illness or injury or to carry out responsibilities for workplace medical surveillance.

4.5.5 RWBAHC provides written notice to the individual that protected health information relating to the medical surveillance of the workplace and work-related illnesses and injuries is disclosed to the employer:

4.5.5.1 by giving a copy of the notice to the individual at the time the health care is provided; or

4.5.5.2 if the health care is provided on the work site of the employer, by posting the notice in a prominent place at the location where the health care is provided.

4.6 If RWBAHC is a public health entity, it will use protected health information in all cases in which it is permitted to disclose such information for public health activities.

4.7 Personnel receiving a request from an individual or entity for use or disclosure of protected health information will utilize PAD Correspondence personnel to determine whether the requesting individual is a person with whom RWBAHC has a knowing relationship.

4.8 Personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting Protected Health Information.

4.9 Once it is determined that use or disclosure is appropriate, PAD Correspondence personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

4.10 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

4.11 PAD Correspondence personnel will appropriately document the request and delivery of the protected health information.

4.12 In the event that the identity and legal authority of an individual or entity requesting Protected Health Information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer in a timely manner.

4.13 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

5. DISCLOSING PROTECTED HEALTH INFORMATION FOR HEALTH OVERSIGHT RELEASE

5.1 RWBAHC may disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of the following:

5.1.1 the health care system;

5.1.2 government benefit programs for which health information is relevant to beneficiary eligibility; or

5.1.3 entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or

5.1.4 entities subject to civil rights laws for which health information is necessary for determining compliance.

5.2 RWBAHC may disclose protected health information without authorization to a health oversight agency if a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health.

5.3 Personnel receiving a request from an individual or entity for use or disclosure of protected health information will utilize PAD Correspondence personnel to determine whether the requesting individual is a person with whom RWBAHC has a knowing relationship.

5.4 Personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting protected health information.

5.5 Once it is determined that use or disclosure is appropriate, PAD Correspondence personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

5.6 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

5.7 PAD Correspondence personnel will appropriately document the request and delivery of the protected health information.

5.8 In the event that the identity and legal authority of an individual or entity requesting protected health information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer in a timely manner.

5.9 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

6. DISCLOSING PROTECTED HEALTH INFORMATION FOR JUDICIAL AND ADMINISTRATIVE RELEASE

6.1 The Chief, Patient Administration Division is responsible to ensure that requests for sensitive records are routed through Fort Huachuca Judge Advocate General (JAG) prior to release.

6.2 RWBAHC will disclose protected health information only after obtaining satisfactory assurance from the requesting party that they have made reasonable efforts to provide notice to the individual who is the subject of the requested protected health information or to secure a qualified protective order.

6.3 RWBAHC will obtain a written statement and accompanying documentation demonstrating that a notice has been given to the individual that contained sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal.

6.4 Where reasonable efforts have been made to ensure that the individual has been given notice of the request, RWBAHC will obtain from the requesting party a written statement and accompanying documentation demonstrating that:

6.4.1 time for raising objections to the court or administrative tribunal has elapsed; and

6.4.2 no objections were filed; or

6.4.3 the court has resolved all objections filed by the individual or the administrative tribunal and the disclosures being sought are consistent with such resolution.

6.5 Where reasonable efforts have been made to secure a qualified protective order, RWBAHC will obtain from the requesting party a written statement and accompanying documentation demonstrating that:

6.5.1 parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or

6.5.2 the party seeking the protected health information has requested a qualified protective order from such court or administrative tribunal.

6.6 Personnel receiving a request from an individual or entity for use or disclosure of protected health information will determine whether the individual or entity has a knowing relationship with the requesting individual.

6.7 Personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting protected health information.

6.8 Once it is determined that use or disclosure is appropriate, PAD Correspondence personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

6.9 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

6.10 PAD Correspondence personnel will appropriately document the request and delivery of the protected health information.

6.11 In the event that the identity and legal authority of an individual or entity requesting protected health information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer in a timely manner.

6.12 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

7. DISCLOSING PROTECTED HEALTH INFORMATION FOR LAW ENFORCEMENT RELEASE

7.1 RWBAHC may disclose protected health information without individual authorization in compliance with and as limited by the relevant requirements of a court order, court-ordered warrant, a subpoena or summons issued by a judicial officer, or a grand jury subpoena.

7.2 RWBAHC may disclose requested protected health information pursuant to an administrative request made by a law enforcement official, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, under the following conditions:

7.2.1 RWBAHC determines, in conjunction with the requesting party, that the information sought is relevant and material to a legitimate law enforcement inquiry.

7.2.2 RWBAHC determines, in conjunction with the requesting party, that the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.

7.2.3 RWBAHC determines, in conjunction with the requesting party, that de-identified information could not reasonably be used.

7.3 Other than stated within this policy, RWBAHC will not disclose any protected health information related to an individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person.

7.4 RWBAHC may disclose the following protected health information in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that RWBAHC only discloses the following:

7.4.1 name and address;

7.4.2 date and place of birth;

7.4.3 social security number;

7.4.4 ABO blood type and rh factor;

7.4.5 type of injury;

7.4.6 date and time of treatment;

7.4.7 date and time of death, if applicable; and

7.4.8 a description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

7.5 RWBAHC may disclose to a law enforcement official protected health information that RWBAHC believes in good faith constitutes evidence of criminal conduct that occurred on the premises of RWBAHC.

7.6 RWBAHC may, in providing emergency health care in response to a medical emergency, other than emergency care provided on the premises of RWBAHC, disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

7.6.1 the commission and nature of a crime;

7.6.2 the location of such crime or of the victim(s) of such crime; and

7.6.3 the identity, description, and location of the perpetrator of such crime.

7.7 RWBAHC may disclose protected health information about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if RWBAHC has a suspicion that such death may have resulted from criminal conduct.

7.8 RWBAHC may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime if the individual agrees to the disclosure.

7.9 In cases where the individual is suspected to be a victim of a crime and where RWBAHC is unable to obtain the individual's agreement because of incapacity of other emergency circumstance, RWBAHC will:

7.9.1 obtain representation from the requesting law enforcement official that such information is needed to determine whether a violation of law by a person other than the victim occurred, and such information is not intended to be used against the victim;

7.9.2 obtain representation from the law enforcement official that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and

7.9.3 in the exercise of professional judgment, make a determination that the disclosure is in the best interest of the individual before disclosing protected health information.

7.10 The following are example procedures for RWBAHC

7.10.1 personnel receiving a request from an individual or entity for use or disclosure of protected health information will utilize DA Form 4254, Request for Private Medical Information to determine whether the requesting individual is a person with whom RWBAHC has a knowing relationship.

7.10.2 personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting protected health information.

7.11 Once it is determined that use or disclosure is appropriate, Patient Administration Department (PAD) Correspondence personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

7.12 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

7.13 PAD Correspondence personnel will appropriately document the request and delivery of the protected health information.

7.14 In the event that the identity and legal authority of an individual or entity requesting protected health information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer in a timely manner.

7.15 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

8. DISCLOSING PROTECTED HEALTH INFORMATION FOR SPECIALIZED GOVERNMENT FUNCTIONS

8.1 RWBAHC may disclose protected health information of individuals in the Armed Forces without individual authorization for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, provided that the appropriate military command authorities and the purposes for which the protected health information may be used or disclosed is published in the Federal Register.

8.2 RWBAHC may use and disclose the protected health information of individuals who are foreign military personnel to their appropriate foreign military authority for the same purposes for which uses and disclosures are permitted for Armed Forces personnel see paragraph 8.1 above.

8.3 RWBAHC may disclose protected health information to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. 401, et seq.) and implementing authority (e.g., Executive Order 12333), or; for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056, or; to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or for the conduct of investigations authorized by 18 U.S.C. 871 and 879.

8.4 RWBAHC which is a component of the Department of State may use protected health information:

8.4.1 to make medical suitability determinations and may disclose whether or not the individual was determined to be medically suitable to the officials in the Department of State who need access to such information for the purpose of a required security clearance conducted pursuant to Executive Orders 10450 and 12698.

8.4.2 to make medical suitability determinations and may disclose whether or not the individual was determined to be medically suitable to the officials in the Department of State who need access to such information as necessary to determine worldwide availability or availability for mandatory service abroad under sections 101(a)(4) and 504 of the Foreign Service Act.

8.4.3 to make medical suitability determinations and may disclose whether or not the individual was determined to be medically suitable to the officials in the Department of State who need access to such information for a family to accompany a Foreign Service member abroad, consistent with section 101(b)(5) and 904 of the Foreign Service Act.

8.5 RWBAHC, which is a component of the Department of Defense or Department of Transportation, may disclose to the Department of Veterans Affairs (DVA) the protected health information of an individual who is a member of the Armed Forces upon the separation or discharge of the individual from military service for the purpose of a determination by DVA of the individual's eligibility for or entitlement to benefits under laws administered by the Secretary of Veterans Affairs.

8.6 Personnel receiving a request from an individual or entity for use or disclosure of protected health information will utilize PAD Correspondence personnel to determine whether the requesting individual is a person with whom RWBAHC has a knowing relationship.

8.7 Personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting protected health information.

8.8 Once it is determined that use or disclosure is appropriate, PAD Correspondence personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

8.9 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

8.10 PAD Correspondence personnel will appropriately document the request and delivery of the protected health information.

8.11 In the event that the identity and legal authority of an individual or entity requesting protected health information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer in a timely manner.

8.12 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

9. DISCLOSING PROTECTED HEALTH INFORMATION FOR WORKER'S COMPENSATION

9.1 Personnel receiving a request from an individual or entity for use or disclosure of protected health information will utilize PAD Correspondence personnel to determine whether the requesting individual is a person with whom RWBAHC has a knowing relationship.

9.2 Personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting protected health information.

9.3 Once it is determined that use or disclosure is appropriate, PAD Correspondence personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

9.4 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

9.5 PAD Correspondence personnel will appropriately document the request and delivery of the protected health information.

9.6 In the event that the identity and legal authority of an individual or entity requesting protected health information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer in a timely manner.

9.7 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

10. DISCLOSING AND REQUESTING ONLY THE MINIMUM AMOUNT OF PROTECTED HEALTH INFORMATION NECESSARY

10.1 All proposed persons having an understanding of RWBAHC's privacy policies and practice and sufficient expertise to understand and weigh the necessary factors will review uses or disclosure of patient health information.

10.2 RWBAHC will only use, disclose, or request an entire medical record when the entire medical record is specifically justified as being reasonably necessary to accomplish the purpose of the use, disclosure, or request.

10.3 Within RWBAHC, all specialties of care will maintain the indicated levels of access to protected health information on a routine basis to appropriately accomplish their duties and responsibilities.

10.4 The following categories of employees are not permitted access to confidential healthcare information:

10.4.1 Security

10.4.2 Environmental services to include maintenance and housekeeping

10.4.3 Individuals are not permitted to access confidential healthcare information for those in which they are not responsible for the provision of healthcare. This means staff is not permitted to review a medical record of a patient in another care area, of a friend, relative, upon request of another, patient, or a patient for whom payment is not expected for healthcare services as in the case of physicians.

10.4.4 Individuals with restricted access to healthcare information who need to see any portion of confidential healthcare information must request permission to view the information. PAD will review requests on an individual basis.

10.5 PAD may provide limited confidential healthcare information upon request if the request is made by another provider, health insurance agency or health information clearinghouse or if requested by a business associate of the provider for the purposes of providing professional services to the provider.

10.6 The following criteria will be used in limiting the amount of protected health information requested (disclosed) by RWBAHC personnel: Does the individual who is requesting (disclosing) the protected health information has a complete understanding of the purpose for the use or disclosure of the protected health information? Are all of the individuals identified for whom the requested use or disclosure of protected health information is required?

10.7 Requests for disclosures of protected health information will be reviewed on an individual basis in accordance with criteria listed in the procedure.

10.8 RWBAHC personnel may reasonably rely on requests by:

10.8.1 public health and law enforcement agencies in determining the minimum necessary information for certain disclosures;

10.8.2 other covered entities in determining the minimum necessary information for certain disclosures; or

10.8.3 a professional who is a member of its workforce or is a business associate of RWBAHC for the purpose of providing professional services to RWBAHC, if the professional represents that the information requested is the minimum necessary for the stated purpose.

10.9 In the event of disclosures for research purposes, RWBAHC will review the documentation of required Institutional Review Board or other approval in determining the minimum amount of protected health information necessary.

10.10 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer

11. VERIFICATION OF ENTITIES REQUESTING USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

11.1 In verifying the identity and legal authority of a public official or a person acting on behalf of the public official requesting disclosure of protected health information, RWBAHC personnel may rely on the following, if such reliance is reasonable under the circumstances, when disclosing protected health information:

11.1.1 documentation, statements, or representations that, on their face, meet the applicable requirements for a disclosure of protected health information;

11.1.2 presentation of an agency identification badge, other official credentials, or other proof of government status if the request is made in person;

11.1.3 a written statement on appropriate government letterhead that the person is acting under the government's authority;

11.1.4 other evidence or documentation from an agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official;

11.1.5 a written statement of the legal authority under which the information is requested;

11.1.6 if a written statement would be impracticable, an oral statement of such legal authority;

11.1.7 a request that is made pursuant to a warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal that is presumed to constitute legal authority.

11.2 RWBAHC personnel may rely on the exercise of professional judgment and follow the requirements of applicable state and other law in making the following uses or disclosures of protected health information:

11.2.1 a use or disclosure for facility directories;

11.2.2 a use or disclosure to others for involvement in the individual's care; or

11.2.3 a disclosure to avert a serious threat to health and safety.

11.3 Personnel receiving a request from an individual or entity for use or disclosure of protected health information will determine whether this individual or entity has a knowing relationship with the requesting individual.

11.4 Personnel will report any discrepancies in the verification of the identity and/or legal authority of an individual or entity requesting protected health information to the Privacy Officer, in a timely manner.

11.5 Once it is determined that use or disclosure is appropriate, PAD Correspondence personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

11.6 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

11.7 PAD Correspondence personnel will appropriately document the request and delivery of the protected health information.

11.8 In the event that the identity and legal authority of an individual or entity requesting protected health information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer, in a timely manner.

11.9 Requests by Parents, Legal Guardians, or other Personal Representative: An individual who makes a request for PHI on behalf of a minor, a person who is legally incompetent, or another individual shall verify that he has authority to act by providing a copy of a birth certificate, a court order, or other competent evidence of the relationship or authority, e.g., health care power of attorney, in addition to verifying his own identity with photo identification (unless personally known to employee), unless the responsible RWBAHC personnel can establish that evidence of the relationship or authority has previously been provided.

11.10 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

12. AUTHORIZATION FOR THE USE OR DISCLOSURE OF PSYCHOTHERAPY NOTES

12.1 RWBAHC will not condition treatment, payment, enrollment or eligibility for benefits of an individual on a requirement that the individual provide a specific authorization for the disclosure of psychotherapy notes.

12.2 The authorization will be written in plain language.

12.3 The authorization may only be combined with another authorization for a use or disclosure of psychotherapy notes.

12.4 Any authorization for the use or disclosure of psychotherapy notes will contain the following:

12.4.1 a description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

12.4.2 the name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;

12.4.3 the name of other specific identification of the person(s), or class of persons, to whom the covered entity may make the requested use or disclosure;

12.4.4 the signature of the individual and date;

12.4.5 an expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;

12.4.6 a statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke;

12.4.7 a description of how the individual may revoke the authorization and a reference to the Military Health System's Notice of Privacy Practices;

12.4.8 a statement that information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient and no longer be protected by 45 C.F.R. Part 164; and

12.4.9 a statement that RWBAHC will not condition treatment, payment, enrollment or eligibility for benefits of an individual on a requirement that the individual provide a specific authorization, except to the extent the law permits:

12.4.9.1 conditioning of research-related treatment on provision of an authorization for disclosures related to such research; or

12.4.9.2 conditioning of health care that is solely for the purpose of creating protected health information for disclosure to a third party, on an authorization to disclose such information to the third party.

12.5 In the event that the authorization is signed by a personal representative of the individual, the authorization will contain a description of the representative's authority to act for the individual.

12.6 RWBAHC will invalidate the authorization if:

12.6.1 the expiration date has passed or the expiration event is known by RWBAHC to have occurred;

12.6.2 the authorization is known by RWBAHC to have been revoked;

12.6.3 any material information in the authorization is known by the covered entity to be false;

12.6.4 the requirements of the authorization have not been filled out completely.

12.7 RWBAHC will document and retain the signed authorization for a period of 6 years from the date of its creation or the date when it last was in effect, whichever is later.

13. AUTHORIZATION: INDIVIDUAL REVOCATION TO DISCLOSE PROTECTED HEALTH INFORMATION

13.1 RWBAHC will not impose a time restriction on when an individual may revoke authorization to use or disclose their protected health information.

13.2 RWBAHC will require individuals to request the revocation of authorization to use or disclose protected health information in writing.

14. PROHIBITING THE USE OF AN INVALID AUTHORIZATION TO DISCLOSE PROTECTED HEALTH INFORMATION

14.1 RWBAHC will invalidate an authorization to use or disclose protected health information upon the following events:

14.1.1 the expiration date has passed or the expiration event is known by RWBAHC to have occurred;

14.1.2 all of the required elements of the authorization have not been filled out completely, as applicable;

14.1.3 the authorization lacks any of the required elements specified in refer to Obtaining Authorization for the Use or Disclosure of Protected Health Information Appendix as required for the purpose of applicable use or disclosure;

14.1.4 the authorization is inappropriately combined with any other document to create a compound authorization;

14.1.5 if any material information in the authorization is known by RWBAHC to be false;

14.1.6 or treatment, payment, enrollment or eligibility for benefits has been unlawfully conditioned on the provision of such authorization.

APPENDIX D
INDIVIDUAL RIGHTS REGARDING PROTECTED HEALTH INFORMATION

1. GRANTING ACCESS TO INSPECT AND OBTAIN A COPY

1.2. RWBAHC requires that individuals direct requests for access, inspection, or a copy of protected health information to the Patient Administration Division (PAD) and complete a DD Form 2870 or DD Form 4254, Request for Health Information Form.

1.3 The individual will be informed that request for access is required to be in writing for access to PHI other than their own. This includes access to PHI of minor children.

1.3.1 an appropriate request from an individual regarding protected health information using the Request for Information Form will, within a reasonable time period, be requested, along with the form, to PAD personnel with appropriate access clearance to protected health information.

1.3.2 upon receipt of a request made, PAD personnel with appropriate clearance will act on the request by:

1.3.2.1 informing the individual of the acceptance and providing the access requested
or

1.3.2.2 providing the individual with a written denial.

1.4 PAD personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

1.5 The individual will be allowed access, inspection, and/or copies of the requested protected health information in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

1.6 RWBAHC will provide the individual with access to the protected health information in the form or format requested by the individual, if it is readily producible in such form or format.

1.7 If the requested format is not readily producible, then RWBAHC will provide the individual with access to the protected health information in a readable hard copy form or such other form as agreed to by the individual.

1.8 If requested by the individual, RWBAHC will arrange with the individual for a convenient time and place to inspect or obtain a copy of the protected health information, or mailing of protected health information, within the specified time period

1.9 A summary of the requested protected health information will be provided in lieu of access to the information only when the individual agrees in advance to a summary, and to any related fees imposed.

1.10 An explanation of the requested protected health information to which access has been provided will accompany the access only when the individual agrees in advance to a summary, and to any related fees imposed.

1.11 If a summary or explanation of the requested information is to be prepared, such summary or explanation will be completed only by PAD, or other applicable personnel with appropriate access clearance.

1.12 PAD personnel will appropriately document the request and delivery of the protected health information.

1.13 Any fees imposed on the individual for a copy of the protected health information or a summary or explanation of such information will:

1.14 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

2. DENYING ACCESS TO INSPECT AND OBTAIN A COPY OF PROTECTED HEALTH INFORMATION

2.1 A denial of access will be issued and will not be reviewed in the following circumstances:

2.1.1 the protected health information is: 2.1.2 Psychotherapy notes;

2.1.2 information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; and

2.1.3 subject to the Clinical Laboratory Improvements Amendments of 1988, 42 U.S.C. §263a, to the extent the provision of access to the individual would be prohibited by law; or exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to 42 CFR §493.3(a)(2).

2.1.4 RWBAHC is acting under the direction of a correctional institution upon an inmate's request for a copy of the protected health information and obtaining a copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or of any officer, employee, or other person at the correctional institution or responsible for the transporting of the inmate;

2.1.5 access to protected health information that was created or obtained by RWBAHC in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research, and has been informed that the right of access will be reinstated upon completion of the research;

2.1.6 the individual's access to protected health information that is contained in records that are subject to the Privacy Act, 5 U.S.C. §552a, may be denied, if the denial of access under the Privacy Act would meet the requirements of that law;

2.1.7 the individual's access may be denied if the protected health information was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

2.2 RWBAHC will review a denial for access to protected health information when requested by an individual in the following situations:

2.2.1 a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;

2.2.2 the protected health information makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or

2.2.3 the request for access is made by the individual's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

2.3 In denying access in whole or in part, to the extent possible, PAD personnel will give the individual access to any other protected health information requested, after excluding the protected health information that was denied.

2.4 When denying an individual access to protected health information, the denial will:

2.4.1 be written in plain language;

2.4.2 contain the basis for the denial;

2.4.3 individuals may exercise their review rights by contacting PAD.

2.4.4 contain a description of how the individual may complain to RWBAHC pursuant to its complaint procedures or to DHHS.

2.5 The description of how the individual may complain will include the name, or title, and telephone number of the contact person or office designated to receive such complaints.

2.6 This policy and procedure will be documented and retained for a period of at least six years from the date of its creation or the date when it last was in effect, whichever is later.

2.7 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

3. REQUESTING RESTRICTION ON USES AND DISCLOSURES

3.1. RWBAHC will allow an individual to request a restriction on the use and disclosure of protected health information. The individual is not required to provide a reason for the request.

3.2. Upon agreeing to such a restriction, RWBAHC will not violate such restriction, unless as specified within this policy and procedure.

5.3 RWBAHC is not required to honor an individual's request in the following situation(s):

3.3.1 when the individual who requested the restriction is in need of emergency treatment and the restricted protected health information is needed to provide the emergency treatment;

3.3.2 if restricted protected health information is disclosed to a health care provider for emergency treatment, RWBAHC will request that such health care provider not further use or disclose PHI, using the following language: "This is restricted information, provided for the purpose of emergency treatment, which should not be further disclosed or used without the permission of the patient to whom the information pertains."

3.4 A restriction agreed to by RWBAHC shall not prevent the use or disclosures for which authorization is not required as outlined in the Notice of Privacy Practices (Military Health System):

3.4.1 disclosures to a patient who requests access to PHI about him/her:

3.4.2 disclosures required by DHHS to investigate or determine compliance by RWBAHC with the HIPAA privacy rule;

3.4.3 uses and disclosures of PHI for Information Desk Display where the patient has not objected to such uses and disclosures;

3.4.4 uses and disclosures required by law disclosures about victims of abuse, neglect or domestic violence;

3.4.5 uses and disclosures for health oversight

3.4.6 uses or disclosures for which no authorization is required.

3.5 If RWBAHC has agreed to a requested restriction, it may terminate its agreement if:

3.5.1 the individual agrees to or requests the termination in writing;

3.5.2 the individual orally agrees to the termination and the oral agreement is documented;

3.5.3 RWBAHC informs the individual that it is terminating its agreement to a restriction. Such termination is only effective with respect to protected health information created or received after it has so informed the individual.

3.6. RWBAHC will document and retain the restriction for a period of at least six years from the date of its creation or the date when it last was in effect, whichever is later.

4. INDIVIDUAL RIGHTS REGARDING PROTECTED HEALTH INFORMATION: CONFIDENTIAL COMMUNICATIONS FOR PROTECTED HEALTH INFORMATION

4.1 RWBAHC requires individuals to make a request for a confidential communication in writing.

4.2 If applicable, the request for confidential communication of protected health information will clearly state that the disclosure of all or part of that information could endanger the individual.

4.3 An alternative means or location will be designated on a case-by-case basis, which is satisfactory to both RWBAHC and the individual before communication of protected health information is made.

4.4 The Privacy Officer, using professional judgment and considering all relevant factors, will be responsible for deciding the alternative means or location to communicate protected health information to an individual.

4.5 Once it is determined that use or disclosure is appropriate, Patient Administration Division (PAD) personnel with appropriate access clearance will access the individual's protected health information using proper access and authorization procedures.

4.6 The requested protected health information will be delivered to the individual in a secure and confidential manner, such that employees or other persons who do not have appropriate access clearance to that information cannot access the information.

4.7 PAD personnel will appropriately document the request and delivery of the protected health information.

4.8 In the event that the identity and legal authority of an individual or entity requesting protected health information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the Privacy Officer in a timely manner.

4.9 Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer.

5. CORRECTION/AMENDMENT OF MEDICAL RECORDS

5.1 The patient writes a letter detailing their complaints and requests an amendment to the Patient Administration Division (PAD). The patient should address why they want the information expunged.

5.2 The letter will be date stamped when received.

5.3 The patient must receive an acknowledgement of the receipt of the request within 10 working days.

5.4 If a decision on the request for correction/amendment can be made within 10 working days of MTF receipt of the request, then the MTF Patient Administrator will simultaneously notify the patient of the receipt and its decision within that 10-day period.

5.5 The medical treatment facility's (MTF) PAD endorses the patient's letter to U.S. Army Medical Command (MEDCOM) PAD (MCHO-CL-P, Medical Records Consultant). The MTF Patient Administrator includes their recommendation and addresses any reluctance of the physician to remove information because it is factual; i.e., the events actually happened as recorded. The patient administrator includes copies from the medical record of the appropriate pages included in the controversy.

5.6 The Medical Records Consultant, MEDCOM, then forwards the complaint to the MEDCOM Freedom of Information (FOIA) and Privacy Act (PA) Office (MCFP, Access and Amendment Refusal Authority (AARA)) with an entire copy for the FOIA/POA Office to rule on.

5.7 The AARA makes the initial decision after coordination with the appropriate physician consultants and PAD. Then, the decision is returned.

5.8 The patient will be notified of the acceptance or denial of the request within 60 days after the receipt of the request. The time period for the action by RWBAHC may be extended by no more than 30 days. If the time period for the action is extended, PAD will within 30 days after receipt of the request, provide the patient with a written statement of the reasons for the delay and the date by which RWBAHC will complete the action on the request. The time period for action will not be extended more than once.

5.9 Once a patient receives a denial, they have 60 days to appeal the decision in writing.

5.10 If the patient continues to disagree, they can obtain a lawyer and pursue legal actions in the court system.

6. ACCOUNTING OF DISCLOSURES

6.1 A request for an accounting of disclosures must be in writing, and made on DA Form 2870, Authorization for Disclosure of Medical or Dental Information. The Form is to be submitted Correspondence Section, Patient Administration Division (PAD).

6.2 Chief, PAD will:

6.2.1 ensure each accounting of a disclosure will include the following: 6.2.1.1 date of disclosure;

6.2.1.1 name of the entity or person who received the protected health information and, if known, the address of such entity or person;

6.2.1.2 brief description of the protected health information disclosed, e.g. immunization record, labs, x-ray;

6.2.1.3 brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure (or include a copy of the individual's written request for disclosure, if appropriate);

6.2.1.4 accountings of oral disclosures of PHI should also include the name, signature and title of staff that made oral disclosure; and

6.2.1.5 copy of a written request for a disclosure required by DHHS to investigate or determine the covered entity's compliance with applicable laws and regulations.

6.2.2 within 60 days of the request, provide a written accounting of instances when the requester's protected health information has been disclosed.

6.2.3 in the event that an extension is required, provide requester not later than 60 days after receipt of the request with a written statement of the reasons for the delay and the date by which the Request of Information (ROI) will provide the accounting. ROI will not extend the time to provide the accounting more than once or longer than 30 days. Therefore, when an extension is required, all accountings will be processed and issued to requester no later than 90 days from date of request.

6.2.4 not charge the requester for the first accounting in any 12-month period. Any fee imposed for each subsequent request for an accounting by the same individual within the 12-month period will be charged based on established cost-based guidance.

6.2.5 upon imposing a fee, inform the requester in advance of the fee and provide the individual with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.

6.2.6 document and retain the following for a period of at least 6 years, from the date accounting is issued to requester.

6.2.6.1 the information required to be included in an accounting; 6.2.6.2 the written accounting that is provided to the individual;

6.2.6.2 the name of PAD Correspondence personnel responsible for receiving and processing requests for an accounting by individual;

6.2.6.3 file form DA 5006 Medical Record Authorization for Disclosure of Information in the back of medical record.

6.3 A health oversight agency or law enforcement official may ask RWBAHC to suspend a patient's right to receive an accounting of disclosures if the agency or official provides a written statement that such an accounting to the patient would be reasonably likely to impede the agency or official's duties. The agency or official must specify how long the right to receive an accounting must be suspended. During the period of suspension, any disclosures requiring an accounting must still be accounted (documented). At the end of the suspension, a patient's right to receive an account is reinstated.

6.4 If the request for temporary suspension is made orally, RWBAHC must document the identity of the agency or official who made the request and must exclude the disclosure(s) for no longer than 30 days from the date of request, unless a written request that meets the requirements of number 2 (above), RWBAHC must temporarily suspend the patient's right to an accounting for the time period specified in the written request.

7. FILING COMPLAINTS

7.1 Filing Complaints with RWBAHC

7.1.1 the primary or alternate Privacy Officer will:

7.1.1.1 accept all written complaints concerning internal policies and procedures regarding the use or disclosure of protected health information.

7.1.1.2 discuss case with complainant if necessary to clarify all basis of complaint.

7.1.1.3 present case and plan for inquiry to Deputy Commander (DC) and legal council (LC) for approval.

7.1.1.4 if required, investigate all pertinent matters of the complaint per DC /LC guidance to confirm privacy violation.

7.1.1.5 document all inquiry findings and present to legal counsel and DC for review and determination of applicable sanctions.

7.1.1.6 if a complaint is founded and, or privacy violation is confirmed, ensure corrective actions to prevent recurrence.

7.1.1.7 prepare written response to complainant

7.1.1.8 prepare monthly report of complaints received and general disposition for Compliance Committee, Admin Staff, Medical Executive Committee, and Executive Committee.

7.1.1.9 file and maintain all complaints received and their disposition for a period of at least 6 years from the date of final reply to patient or closure of case, whichever is later. Complaint files must include, as applicable: complaint, inquiry findings, disposition, sanctions applied, and reply to complainant.

7.2 Filing Complaints with the Health & Human Services (HHS). If an individual chooses to file a complaint with HHS, the complaint must:

7.2.1 be filed in writing, either on paper or electronically;

7.2.2 name the entity that is the subject of the complaint and describe the actions that have allegedly been violations of the privacy standards; and

7.2.3 be filed within 180 days of when the complainant knew or should have known that the violation occurred.

8. TREATING A PERSONAL REPRESENTATIVE OF THE INDIVIDUAL AS THE INDIVIDUAL

8.1 RWBAHC will treat a person as a personal representative of an individual with respect to disclosure of protected health information if under applicable law:

8.1.1 a parent, guardian, or other person acting in loco parentis (in the place of a parent) has authority to act on behalf of an individual who is an un-emancipated minor in making decisions related to health care; or

8.1.2 an executor, administrator, or other person has authority to act on behalf of a deceased individual or of the individual's estate.

8.2 RWBAHC will treat a person as a personal representative of a deceased individual with respect to the protected health information relevant to such representation, if under applicable law the person is an executor, administrator, or other person with authority to act on behalf of the deceased individual or of the individual's estate.

8.3 RWBAHC will not treat a person as a personal representative of an minor when the minor has authority to act with respect to their protected health information pertaining to a health care service if:

8.3.1 the minor consents to such health care service, no other consent is required by applicable law, and the minor has not requested that another person be treated as the personal representative;

8.3.2 applicable law permits the minor to obtain such health care service without the consent of a parent, guardian, or other person acting in loco parentis; and the minor, a court, or another person authorized by law consents to such health care service; or

8.3.3 a parent, guardian, or other person acting in loco parentis assents to an agreement of confidentiality between a covered health care provider and the minor with respect to such health care service.

8.4 RWBAHC will not treat a person as the personal representative of an individual if:

8.4.1 RWBAHC has a reasonable belief that the individual has been or may be subjected to domestic violence, abuse, or neglect by such person; or treating such person as the personal representative could endanger the individual; and

8.4.2 RWBAHC, in the exercise of professional judgment, decides that it is not in the best interest of the individual to treat the person as the individual's personal representative.

8.5 RWBAHC will follow the requirements and/or permissions of applicable state and other law in determining whether to provide or deny access to a minor's protected health information to a parent, guardian, or other person acting in loco parentis.

APPENDIX E
HIPAA PROCESSING PROCEDURES FOR SUPERVISORS OF VIOLATORS

(Put Letterhead here)

MCXJ-PAD

(Date)

MEMORANDUM FOR (Put name here)

SUBJECT: Notification of HIPAA Investigation Requirements to the applicable NCOIC/OIC/CNOIC/Department Chief and responsible Deputy

A HIPAA investigation identified as HIPAA case number _____ has been initiated within your department; please see Section _____ as the following items in bold are required to be completed within 10 working days of this notification _____. If this notification pertains to an alleged violation and the accused has had a past investigation initiated upon them, then please refer to Section 2. Multiple Offense Procedures listed below. If it pertains to an Unidentified Incident/Occurrence see Section 3.

1. General HIPAA Investigation (GHI)

a. **Memorandum for Record (MFR)** from the supervisor of the incident violator will contain the following:

- “Who, What, When, Where and Why” aspects of the incident.
- **Include** in the MFR when the alleged violators last HIPAA training occurred and **attach** the Training Certificate to the MFR. Please annotate on the certificate LAST HIPAA TRAINING, as it will be included in their HIPPA case packet.
- **Address** in the MFR corrective actions taken ie: counseling, retraining etc. (*a MFR counseling outline is attached*)
- **Scan or Forward** these documents to the HIPPA Officer and the Patient Safety Manager.

***The Patient Safety Manager will review the MFR and determine if a Patient Safety Report (PSR) requires completion. (*Please remember to encrypt your message if you use email as you are forwarding details with personally identifiable information.*)

b. **Establish HIPAA Remedial Training** reset with RWBAHC Information Assurance Network Manager (IANM) @ 520-533-9318. Once the individual has completed the retraining the certificate must be submitted to the HIPAA Officer.

c. *and Department Deputy will determine if the above mentioned steps will be sufficient disciplinary actions and, if applicable, if notification to the Civilian Personnel Advisory Center*

(CPAC) office is advisable for further disciplinary action.

2. Multiple Offense Investigation Procedures (MOIP)

- a. **Complete** steps 1a. through 1c.
- b. **Obtain** a copy of the past completed HIPAA Investigation packet(s) from the HIPAA Officer in reference to the employee. *The CPAC Office representative will require these documents in order to proceed with any actions.*
- c. **After completing the packet and obtaining a copy of the previous HIPAA investigation packet from the HIPAA Officer and contact the CPAC office** at 520-533-5622 to receive guidance and accurate processing procedures of your current documentation should disciplinary actions be determined as the next logical step.

3. Unidentifiable Incident and or Occurrence Investigation Procedures (UIOIP)

Situation: *Protected Healthcare Information (PHI) or Personally Identifiable Information has been found in your clinic or work area. There is no evidence available to ascertain any details of how the information came to be unsecured.*

- a. Immediate Supervisor of the clinic or section **complete an MFR stating:**
 - The “Who, What, When, Where and Why” aspects of the incident that can be documented.
 - **Annotate on the MFR** that you have reviewed the importance of both personally identifiable information and protecting protected health information with your staff.
 - **Scan or Forward the MFR and the documents found** to the HIPAA Officer and the Patient Safety Manager.***The Patient Safety Manager will review the MFR and determine if a Patient Safety Report (PSR) requires completion. *(Please remember to encrypt your message if you use email as you are forwarding details with personally identifiable information.)*
 - **Notify your clinical chain of command to the Deputy Level** and ensure that you have forwarded them a copy of this document so they are aware of your timeline and requirements.

4. Point of contact for this memorandum is the undersigned at (520) 533-0447 or (email).

Encl (1)
MFR Counseling

(HIPAA OFFICER)
CPT, USA
Chief, Patient Administration Division

**APPENDIX F
COUNSELING TEMPLATE**

MCXJ-PAD

(Date)

MEMORANDUM FOR:

Subject: (Employee/Soldier Name) Performance Based Counseling; HIPAA

1. You are being counseled in regards to an alleged violation of the HIPAA Privacy Policy.

Description of Events: (Name of Individual) (Date Incident Occurred) (Who, what, when, where and why) (Who else if another patient was involved was affected?)

2. (Employee/Soldier Name) have been trained on the following procedures:

- a. For example: Two Patient Identifiers (date of training)
- b. For example: HIPAA/APEX (date of training)
- c. For example: Clinical Procedures (date of training)
- d. Etc...

3. After looking into this incident, it has been determined that you failed to follow: *(Mention the applicable procedure that the Soldier/Employee failed to follow)*

4. This is a serious issue, AR 40-66, Para 2-2 under Policies Governing Protected Health Information: DA policy mandates that the confidentiality of PHI of both living and deceased individuals will be ensured to the fullest extent possible. AR 40-66 under Para 2-2 Policies governing protected Health information states: "Any person who, without proper authorization, discloses PHI may be subject to adverse administrative action or disciplinary proceedings." Under HIPAA laws and regulations, penalties for misuse or misappropriation of PHI may result in civil monetary penalties and/or criminal penalties.

5. A notification to the RWBAHC Patient Safety Officer on the following events will be sent forward.

6. Due to the seriousness of this, you will be required to take HIPAA refresher training course.

SUPERVISOR Last, First
Position or Job title
Where you work

Acknowledgement of Receipt:

Employee Signature: _____ Date: _____