



DEFENSE HEALTH AGENCY
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DHA-Policy Memorandum 23-010
October 5, 2023

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Parental Access to Protected Health Information of Unemancipated Minors

- Reference:
- (a) DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007
 - (b) DoD Instruction 6025.18, "Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Compliance in DoD Health Care Programs," March 13, 2019
 - (c) DoD Manual 6025.18, "Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DoD Health Care Programs," March 13, 2019
 - (d) Assistant Director for Health Care Operations Memorandum, "Minors and Reproductive Health Care Services (Overseas)," March 12, 2023

This Defense Health Agency (DHA)-Policy Memorandum, based on the authorities of references (a), (b), (c), and (d) provides guidance on disclosure of protected health information (PHI) of unemancipated minors to their legal personal representative(s) by staff at DHA military medical treatment facilities (MTFs).

The Department of Defense (DoD) complies with federal law governing health information privacy to include the release of protected health information (PHI) per the Health Insurance Portability and Accountability Act (HIPAA) (as implemented in DoD Instruction 6025.18, "Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Compliance in DoD Health Care Programs," March 13, 2019, and DoD Manual 6025.18, "Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DoD Health Care Programs," March 13, 2019) and the Privacy Act (as implemented in DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007).

In general, when a parent or guardian or other person acting in loco parentis (i.e., an adult with authority to act in place of the parents) has authority to act on behalf of an unemancipated minor in making decisions related to health care, they are considered the personal representative for receipt of the minor's PHI. In those instances (e.g., mental health care, pregnancy, care for sexually transmitted diseases) where a minor is recognized as being able to provide informed consent for their own care, typically when they become adolescents, state and federal law under HIPAA protects their privacy interests.

Access to PHI via the online patient portal is dependent on credentials managed by the Defense Manpower Data Center and subject to technical procedures implemented to safeguard the PHI of unemancipated minors within the electronic health record. Patient portal online access for parents, guardians, and others acting in loco parentis for adolescents would be limited to viewing online appointments, messaging, immunizations, and allergies. Parents have full online access to PHI of unemancipated minors (ages 12 and under) unless limited by other applicable law or regulation. Because of this, DoD may not be able to provide full online access to parents, guardians, or other persons acting in loco parentis for adolescents (ages 13 to 17). Parents, guardians, and others acting in loco parentis may still obtain medical records through the Military Medical Treatment Facility Outpatient Medical Records Department consistent with HIPAA for adolescents when the encounter was not one for which the adolescent provided their own consent or when they authorized in writing another's access to their PHI for encounters for which they consented.

DHA MTFs, also known as covered entities under HIPAA, are required to implement policies and procedures designed to comply with the standards, implementation specifications, or other requirements of reference (b). DHA MTFs must incorporate into the MTF's HIPAA policies and procedures applicable international agreements, international laws, federal laws and regulations, and state laws when not in conflict with federal laws and regulations pertaining to a personal representative who may have the authority to act on behalf of an unemancipated minor in making health care decisions. MTF Directors must ensure the workforce is trained on the MTF's HIPAA policies and procedures.

MTFs will provide information on access to PHI of minors via local websites, forums, and awareness products (e.g., posters, flyers, newspapers) for beneficiaries to understand the procedures to request and receive PHI, as applicable. The standard enterprise-wide information flyer provided by DHA Strategic Communications will be used to provide beneficiaries information on options to receive PHI of their minor children.

This DHA-Policy Memorandum is cleared for public release and available on the Internet from the Health.mil site at: <https://health.mil/Reference-Center/Policies> and is also available to authorized users from the DHA SharePoint site at: <https://info.health.mil/cos/admin/pubs/>.

Please address questions regarding this DHA-Policy Memorandum to the DHA Privacy and Civil Liberties Office at dha.ncr.pcl.mbx.hipaa-compliance-inquiries@health.mil.

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Director

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Attachments:
DHA Strategic Communications Information Flyer

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MILITARY HEALTH SYSTEM MHS GENESIS

Patient Portal Eligibility

IMPORTANT INFORMATION REGARDING PATIENT PORTAL ELIGIBILITY AND ADULT PROXIES

- Access to Patient Portal information is dependent on DMDC DS Logon permissions.
- Beneficiaries may grant permission to family members for access to medical information, by going to Managing Relationships in DS Logon via <https://www.dmdc.osd.mil/identitymanagement/app/login>
- The Department of Defense allows proxy access for situations where the beneficiary cannot access or provide consent for access. Legal documentation is required. See the DS Logon Frequently Asked Questions for additional information.

ACCESSING MEDICAL RECORDS

- Beneficiaries may access their and their family members' medical records via the Patient Portal, subject to DS Logon permissions.
- Beneficiaries may visit their military hospital or clinic and request the records in person.
- Beneficiaries may coordinate with their military hospital or clinic to submit a request via postal mail or email.

FOR FURTHER ASSISTANCE PLEASE CONTACT:

PATIENT PORTAL PERMISSIONS

- **Ages 18+:** If eligible, may create their own DS Logon account and be able to access the Patient Portal.
- **Ages 0-12:** Only sponsors, parents, or guardians (Proxies) are granted access to a child's records.
- **Ages 13-17:** Only sponsors, parents, or guardians are granted access to a limited set of the teenager's records such as appointments, secure messages, immunizations, and allergy information. Sensitive clinical information is restricted from view in accordance with State Laws and the Health Insurance Portability and Accountability Act (HIPAA).
- **Beneficiaries with special health care needs:** Proxies may be granted access in accordance with DOD guidelines.
- **Active Duty/National Guard/Reserve:** May access the Patient Portal with a valid DS Logon account.
- **Retirees:** May access the Patient Portal with a valid DS Logon account.
- **Veterans with a continuing affiliation to the DOD:** May access the Patient Portal with a valid DS Logon account.



Last updated on November 2023

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