

DEPARTMENT OF DEFENSE

Billing Code 5001-08

Office of the Secretary

DoD Health Information Privacy Program

AGENCY: Office of the Secretary, DoD

ACTION: Notice

SUMMARY: Under 45 CFR Part 164, "Standards for Privacy of Individually Identifiable Health Information" and DoD 6025.18-R, "DoD Health Information Privacy Regulation" provisions are made to allow appropriate uses and disclosures of protected health information concerning members of the armed forces to assure the proper execution of the military mission, provided that the Department of Defense publishes in the Federal Register a notice describing implementation of these provisions. This notice implements those provisions.

EFFECTIVE DATE: This notice is effective April 14, 2003

FOR FURTHER INFORMATION CONTACT: CDR Sam Jenkins, Health Information Privacy Officer, TRICARE Management Activity, Skyline 5, Suite 810, 5111 Leesburg Pike, Falls Church, Virginia 22041-3206, 703-681-5611, extension 6824.

SUPPLEMENTAL INFORMATION:

In accordance with 45 CFR 164.512(k)(1)(i), the Department of Defense has established in DoD 6025.18-R, paragraph C7.11 , the following provisions.

1 General Rule. A covered entity (including a covered entity not part of or affiliated with the Department of Defense) may use and disclose the protected health information of individuals who are Armed Forces personnel for activities deemed

necessary by appropriate military command authorities to assure the proper execution of the military mission.

2. Appropriate Military Command Authorities. For purposes of paragraph 1, appropriate Military Command authorities are the following:

2. All Commanders who exercise authority over an individual who is a member of the Armed Forces, or other person designated by such a Commander to receive protected health information in order to carry out an activity under the authority of the Commander.

2.2. The Secretary of Defense, the Secretary of the Military Department responsible for the Armed Force for which the individual is a member, or the Secretary of Homeland Security when a member of the Coast Guard when it is not operating as a service in the Department of the Navy.

2.3. Any official delegated authority by a Secretary listed in subparagraph 2.2 to take an action designed to ensure the proper execution of the military mission.

3. Purposes for Which the Protected Health Information May Be Used or Disclosed. For purposes of paragraph 1, the purposes for which any and all of the protected health information of an individual who is a member of the Armed Forces may be used or disclosed are the following:

3.1. To determine the member's fitness for duty, including but not limited to the member's compliance with standards and all other activities carried out under the authority of DoD Directive 1308.1, "DoD Physical Fitness and Body Fat Program," July 20, 1995, DoD Instruction 1332.38, "Physical Disability Evaluation," November 14, 1996,

DoD Directive 5210.42, "Nuclear Weapons Personnel Reliability Program (PRP)," January 8, 2001, and similar requirements.

3.2. To determine the member's fitness to perform any particular mission, assignment, order, or duty, including compliance with any actions required as a precondition to performance of such mission, assignment, order, or duty.

3.3. To carry out activities under the authority of DoD Directive 6490.2, "Joint Medical Surveillance," August 30, 1997.

3.4. To report on casualties in any military operation or activity in accordance with applicable military regulations or procedures.

3.5. To carry out any other activity necessary to the proper execution of the mission of the Armed Forces.

Linda Bynum
Alternate Federal Register Liaison Officer
Department of Defense