

Requestor	Authority	Armed Forces PHI	Dependent PHI
<p><b>Commanding Officer Or Acting CO</b></p> <p>***CANNOT be By Direction***</p>	<p>C7.11</p>	<p>Yes if:</p> <p>Should come from Legal or refer the requestor to Legal.</p> <p><b>(1) Written request on command letterhead signed by the CO or Acting CO for records for a member under his/her command or authority (cannot be signed By direction)</b></p> <p><b>***Minimum necessary rule must be applied***</b></p>	<p>Never!</p> <p>The CO cannot access a family member's PHI</p>
<p><b>Investigation Officer</b></p> <p>- Command Investigations - Administrative Investigation</p>	<p>JAGMAN - JAGINST 5800.7F and C7.11</p>	<p>Yes, if:</p> <p>1) Consent from patient; or 2) The Appointing Order signed by the Commanding Officer that authorizes access to the medical records/information re: the investigations</p>	<p>NO!</p>

<b>NCIS</b>	C7.1 and C7.6.1.2.3  SECNAVINST 5430.107, page 9, para (e)	Yes, if:  (1) written investigative demand on letterhead signed by the supervisory agent, stating what is needed and why	
<b>Air Force OSI</b>	C7.1 and C7.6.1.2.3 and AF141-210, sect. 4.5.2	Same as NCIS	
<b>Army CID</b>	C7.1 and C7.6.1.2.3 andAR195.2, sect. 3-15;	Same as NCIS	
<b>Coast Guard OSI</b>	C7.1 and C7.6.1.2.3 and COMDTINST 5520.5F, sect. 16(d)	Same as NCIS	

<p><b>FAP/CRS</b> (in cases of suspected abuse)</p> <p>**This does not include Fleet and Family Service Center** Release to FFSC requires consent from the patient</p>	<p>SECNAVINST 1752.3B</p> <p>C7.2.1.2 (child abuse/neglect)</p> <p>C7.3.1, C7.3.3 (domestic violence)</p>	<p>Yes, if:</p> <p>Must provide a written request (on Letterhead) stating what is needed and why</p>	<p>Yes, (same as service member)</p> <p>**** Minimum necessary rule must be applied to the release of records in a child abuse case****</p>
<p><b>Guardian of Litem (GAL)</b></p> <p>The GAL only has access to his/her client/s's care/records; A judge can order a GAL to represent children and adults so it is imperative that you look at the order to see who they are representing.</p>	<p>VAC 16.1-266</p> <p>C8.7</p>	<p>Yes, if:</p> <p>Can access Records only with Judge Order!</p> <p>Must provide a written request stating what is needed and why</p> <p>Even though the court order gives access to the provider, the GAL must comply with 5820!</p>	<p>Yes if:</p> <p>Same as military member</p> <p>****Only release the clients records***</p>

<p><b>Article 32 Officer</b></p>	<p>DoD Memo dated September 22, 2004</p> <p>(HIPAA Regulations to Art. 32 Invest.)</p> <p>If the protected health information pertains to a member of the armed forces, disclosure is allowed under DoD 6025.18-R, of 24 Jan 03, paragraph C7.11.1, in that an Article 32 Investigation is directed by a commander for purposes of compliance with an enforcement of the UCMJ, an activity clearly necessary to</p>	<p>Consent from patient or Commanding Officer's approval letter or Court-Order</p>	<p>No!</p> <p>Needs a court-order</p>
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	the proper execution of the mission of the armed forces.		
<b>Government Trial or Defense Counsel</b>  ***This request will go through Legal***	C7.5.1; C7.5.3 and C7.5.4	1) Consent from service member or  2) Military Judge Court-Order	Same
<b>Civilian Attorney (w/consent)</b>	C11.1.1 (Right to access)	Yes, if; (See Patient Authorization below)  The consent is properly filled out and signed by the patient, the Guardian or the Representative	Same
<b>Civilian Attorney Subpoena Duces Tecum (w/out consent pursuant to an attorney issued SDT)</b>  ***Will be forwarded by Legal***	C7.5.1.2 and C7.5.1.1	Requires a Judged signed Court-Order that has been served on Code 14 in Washington	Same
<b>Judged Signed Court Order (Military Court-Martial C7.5.4 or Civilian)</b>  ***Request should come from Legal***	C7.5.1; C7.5.3 and C7.5.4	Civilian or Military Judged signed order	Same

<p><b>Patient Authorization</b></p> <p>DD Form 2870 (Valid authorization is defined in C5.2.1)</p>	<p>C11.1.1 (Right to access)</p> <p>Med Man chapter 16-37 Handling of Medical Information</p>	<p>Yes,</p> <p>An authorization (DD Form 2870) correctly filled out and signed by the patient/Guardian/Legal Representative:</p> <p>Pay attention to BLOCK 10: Authorization Expiration: If date is used, the date cannot be passed the date of release. If Action Completed is annotated then the release date does not matter.</p> <p>If the AHLTA NOTE is marked "DO NOT RELEASE WITHOUT PRIOR AUTHORIZATION"</p>	<p>Same</p>
<p><b>Congressional Inquiry</b></p>	<p>BUMED 5216.13 para (7);</p> <p>TMA Info Paper, DoD 5400.11R (C4.2.9)</p>	<p>MUST have Consent signed by the patient</p>	<p>Same</p>

<b>DoD to VA</b>	MOU between DoD and VA of 19 May 2005 and C7.11.2	*Agreement to share PHI on the military member to determine eligibility for VA benefits.	N/A
<b>Decedents</b>	C7.7 and C8.7.4  VA Code 32.1-127.1:03, para 24	Yes, if:  A Coroner, Medical Examiner, and Funeral Director (C7.7)  VA Code 32.1-127.1:03, paragraph 24: If the health records are those of a deceased or mentally incapacitated individual to the personal representative or executor of the deceased individual or the legal guardian or committee of the incompetent or incapacitated individual or if there is no personal representative, executor, legal guardian or committee appointed, to the following persons in the following order of priority: a spouse, an adult son or daughter, either parent, an adult brother or sister, or any other relative of the deceased individual in order of blood relationship.	Same

		<p>***Active Duty only***If for IO to complete a LODI, the authorization must be put in writing from the CO (usually in the Appointing Order)</p>	
<p><b>Denial of Record</b></p>	<p>C11.1.1; C11.1.2 (Unreviewable grounds: 8 incidents) and C11.1.3 (reviewable grounds: 3 incidents)</p> <p>C11.4.2 guidelines for denial response</p>	<p>Yes, BUT:</p> <p>If the 1<sup>st</sup> licensed provider recommends denial and the person is notified of his right to appeal. If the person wants to appeal, they will do so in writing - The 1<sup>st</sup> provider will inform HIPAA Privacy Officer (Mike Lowry) and then have a 2<sup>nd</sup> licensed provider not involved with treatment/or denial review the record and provide decision. If they both agree then forward all supporting documents to HIPAA Privacy Officer (Mr. Lowry) to draft final Command response.</p> <p>ONLY! If the providers disagree with one another then forward all supporting documents to Legal for final</p>	<p>Same</p>

		review. Legal will then forward all documents and final decision to Mr. Lowry to draft the Command's final response letter. IAW C11.4.2	
<b>Drug and Alcohol Record To Commanding Officer</b>  Service Member's Consent is NOT required	C11.7; C8.9 and  SECNAVINST 5300.28D	See CO requirements above.  ***Minimum necessary rule must be applied***  1) Written request on letterhead from CO stating what is needed and why  ***Diagnosis, description of treatment prescribed or planned impact on duty or mission, recommended duty restrictions and prognosis***	NO!
<b>Drug and Alcohol Record To DAPA</b>  Service Member's Consent is NOT required	C11.7; C8.9 and  SECNAVINST 5300.28D	1) Can only release treatment success or failure	No!

<p><b>Civilian Police Officers</b></p>	<p>Mandatory Reporting (C7.2.1.2, C7.3.1. C7.3.1.1)</p> <p>And all other: C7.6</p>	<p>Yes, if:</p> <p>1) Mandatory reporting can be done without a Judged Signed Court-Order</p> <p>2) Any other releases re a judged signed Court-Order</p>	<p>same</p>
<p><b>Appointment reminders/Missed/cancellation to CO or Command Authorities</b></p> <p>*** (No consent is needed) ***</p>	<p>C8.2</p> <p>Memo from Sec. of Defense dtd 1/31/05;</p> <p>TMA Info paper 2/10/05</p> <p>MARADMIN 308/11 paragraph (4) (c) (6)</p> <p>Doncio.navy.mil website</p>	<p>Only includes the reminder/missed/cancellation notification ***Does not include what clinic***</p>	<p>N/A</p>
<p><b>Child Protective Service (CPS) and Adult Protective Service (APS)</b></p> <p>***** Only the Victim's Record***** (CPS - Child victim and APS - Adult victim)</p>	<p>C7.2.1.2</p> <p>Va Code 63.2-1509</p>	<p>N/A</p>	<p>1) Request in writing signed by the CPS/APS supervisor stating what they need and why</p>

<p><b>Parent/Guardian/Representative of the Minor Child/Loco Parentis</b></p> <p>(Either parent regardless of who has custody unless the parental rights have been taken away by a Court)</p> <p>**Regardless if the minor child can consent to treatment**</p>	<p>Code of VA 54.1-2969</p> <p>C2.4.2.1 and C8.7</p>	<p>N/A</p>	<p>Yes, if:</p> <p>With a consent form</p>
<p><b>Inmates in Correctional Institutions Or in Custody</b></p>	<p>C7.11.6 and C9.1.2</p>	<p>Must be in writing stating what is needed and why and meets all of the requirements for release listed in C7.11.6</p> <p>****Consent or Notification is NOT needed from Inmate</p>	<p>Same</p>
<p><b>Psychotherapy notes</b></p> <p>Are NOT in AHLTA **** They are separate from the medical records</p>	<p>DL1.1.29 (Define)</p>	<p>Mental Health Provider has the Psychotherapy note separate</p> <p>Can deny the individual access with no rights to review</p>	<p>Same</p>

<p><b>Social Security (SSA)</b>  (electronic signature)</p>	<p>Assistant Sec. of Defense Memo dated Jul 26, 2012 (Reliance on a Electronic signature when disclosing PHI to the SSA)</p>	<p>Social Security Administration ONLY!</p>	<p>Electronic Signatures can only come on the SSA forms from the SSA</p>
<p><b>Mental Health Records</b></p>	<p>DoDI 6490.08, para (3) (b)</p>	<p>DoD put strict GUIDELINES/LIMITATIONS on the MTF/Providers disclosing mental health/SARP information to Commanding Officers/Representatives in DoDI 6490.08.</p> <p>In DoDI 6490.08, para (3) (b) - Healthcare providers shall NOT notify/disclose mental health information/substance abuse education to the member's Commander EXCEPT if the one of the following circumstances are present from (DoDI 6490.08, enlc. (2)) (also listed below) and then the disclosure is minimum necessary:</p>	<p>No!</p>

		<p>1) Harm to Self; 2) Harm to Others; 3) Serious risk of harm to a specific military operational mission. Serious risks may include disorders that significantly impact impulsivity, insight, reliability, and judgment;</p> <p>4) Special Personnel are members that are in the PRP or in a position that has been prescribed by Service regulation or the command as having mission responsibilities of such potential sensitivity or urgency that normal notification standards would significantly risk mission accomplishment;</p> <p>5) Inpatient Care;</p> <p>6) ACUTE Medical Conditions Interfering with Duty - member experiencing an ACUTE mental health condition that IMPAIRS the member's ability to perform assigned duties;</p> <p>7) Substance Abuse Treatment Program - service member has entered into or discharged from a</p>	
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		<p>formal Inpatient or Outpatient TREATMENT program for substance abuse; 8) Command directed mental health eval; 9) Other: If the proper execution of military mission outweighs the interests served by avoiding the notification (determined on a case-by-case basis).</p> <p>With all of the above the minimum necessary rule applies which usually consists of the diagnosis/prognosis; description of treatment; impact on duty or mission; duty restrictions/limitations, or if there are concerns with safety of self or others. And the MTF/Provider is required to account for the disclosure to the Commander/or Representative unless the member consents to the release.</p>	
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<p><b>Medical Records released to the CO from a covered entity (Medical Department/providers are a covered entity)</b></p>		<p>HIPAA only applies to covered entities the information can be released to the CO with a written request from the CO stating access in the appointing letter. Once the Commanding Officer has the protected information it is no longer covered by HIPAA, but it is still covered by the Privacy Act (most times resulting in the same release analysis). While the Privacy Act does not apply to the deceased, the command still has an obligation to protect against unwarranted intrusions into privacy (which would be the FOIA analysis that would normally be given and may eventually be the case here).</p>	
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