

## NOTICE OF PRIVACY PRACTICES

- 1. PURPOSE.** This Veterans Health Administration (VHA) Handbook establishes the procedures for maintaining and distributing the VHA Notice of Privacy Practices.
- 2. SUMMARY OF MAJOR CHANGES.** This is a new Handbook which describes the content, dissemination, and revision requirements of the notice in compliance with the provisions of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, Title 45 Code of Federal Regulations (CFR) Parts 160 and 164.
- 3. RELATED ISSUES.** VHA Directive 1605.
- 4. FOLLOW-UP RESPONSIBILITY.** The Office of Health Information (19) is responsible for the contents of this Handbook. Questions may be referred to the VHA Privacy Officer at 704-245-2492.
- 5. RESCISSIONS.** None.
- 6. RECERTIFICATION.** This VHA Handbook is scheduled for recertification on or before the last working day of October 2015.

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Under Secretary for Health

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## NOTICE OF PRIVACY PRACTICES

### 1. PURPOSE

This Veterans Health Administration (VHA) Handbook establishes procedures for maintaining and distributing VHA's Notice of Privacy Practices.

### 2. BACKGROUND

By the provisions of the Standards for Privacy of Individually-Identifiable Health Information (IIHI), under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule (see title 45 Code of Federal Regulations (CFR) Parts 160 and 164), VHA as a covered entity, is required to provide a VHA Notice of Privacy Practices to all Veterans, other beneficiaries who receive health care benefits from VHA, and non-Veteran patients who receive care at a VHA health care facility.

### 3. SCOPE

This Handbook describes the content, dissemination, and revision requirements of the Notice of Privacy in compliance with HIPAA. The goal of the notice is to inform Veterans, beneficiaries, and non-Veteran patients the ways in which VHA may: use and disclose their health information with or without their authorization; notify Veterans, beneficiaries, and non-Veteran patients of their rights to access and restrict their health information; and inform Veterans, beneficiaries, and non-Veteran patients of VHA's legal duties to maintain the privacy of their health information.

### 4. DEFINITIONS

a. **Beneficiary.** A beneficiary is a dependent or survivor of a Veteran receiving health care benefits through one of the following programs administered by VHA: the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), the Spina Bifida Program, or the Program for Children of Women Vietnam Veterans.

b. **Disclosure.** Disclosure is the release, transfer, provision of, access to, or divulging in any other manner of information outside VHA.

c. **Episode of Care.** An episode of care refers to all treatment rendered in a specified timeframe for a specific condition or disease (i.e., admission, outpatient care visit).

d. **Health Care Operations.** Health care operations include any of the following activities of the covered entity, to the extent that the activities are related to covered functions:

(1) Conducting quality assessment and improvement activities;

(2) Populations-based activities relating to improving health or reducing health care costs, protocol development, and case management, etc.;

(3) Reviewing competence or qualifications of health care professionals, to include evaluating practitioner performance, health plan performance, conducting training programs, certification, licensing, or credentialing activities;

(4) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance), provided that the requirements of 45 CFR § 164.514(g) are met, if applicable;

(5) Conducting medical reviews, legal services, and auditing functions;

(6) Business planning and development; and

(7) Business management and general administrative activities, including management, customer service, and resolution of internal grievances.

e. **Health Information**

(1) Health information is any information in any form or medium, created or received by a health care provider or health plan relating to the:

(a) Past, present, or future physical or mental health or condition of an individual;

(b) Provision of health care to an individual; or

(c) Past, present, or future payment for the provision of health care to an individual.

(2) This encompasses information pertaining to: examination, medical history, diagnosis, and findings or treatment, including such information as laboratory examinations, X-rays, microscopic slides, photographs, prescriptions, etc.

f. **Individuals.** For the purpose of this Handbook, individual includes Veterans, beneficiaries, and non-Veteran patients.

g. **Individually-Identifiable Health Information (IIHI).** IIHI is a subset of health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, or health care clearinghouse. This information relates to the past, present, or future condition of an individual and the provision or payment of health care; and it identifies the individual or, a reasonable basis exists to believe the information can be used to identify the individual. *NOTE: IIHI does not have to be retrieved by name or other unique identifier to be covered by this Handbook.*

h. **Non-Veteran Patient.** A non-Veteran patient is an individual seeking medical care or treatment at a VHA medical facility who is not enrolled in VHA health care program, such as active duty Servicemembers or anyone provided with medical care for humanitarian purposes (e.g., in a medical emergency).

i. **Payment.** Payment consists of activities undertaken by a health plan to obtain premiums, to determine its responsibility for coverage, or to provide reimbursement for the provision of health care. This includes activities undertaken by a health care provider to obtain reimbursement for the provision of health care.

j. **Personnel.** For the purpose of this Handbook, the term personnel includes Department of Veterans Affairs (VA) officers, employees, consultants, without compensation (WOC) workers, contractors, medical students and other trainees, and uncompensated services volunteer workers (excluding patient volunteers) providing a service at the direction of VA staff.

k. **Protected Health Information (PHI).** PHI is IIHI (see subpar. 4g), that is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium by VHA or a VHA business associate.

l. **Record**

(1) A record is any item, collection, or grouping of information about an individual that is maintained by VHA, including, but not limited to: education; financial transactions; medical history; treatment; and criminal or employment history that contains the name, or an identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

(2) Records include information that is stored in paper records or in electronic format; on computers, minicomputers, personal computers, or word processors. ***NOTE: Tissue samples are not considered a record.***

m. **Treatment.** Treatment is the provision, coordination, or management of health care, or related services, by one or more health care provider. This includes:

- (1) The coordination of health care by a health care provider with a third party;
- (2) Consultation between providers relating to a patient; and
- (3) The referral of a patient for health care from one health care provider to another.

n. **Use.** Use is the sharing, employment, application, utilization, examination, or analysis of information within VHA.

o. **VHA Health Care Facility.** For the purpose of this Handbook, the term a VHA health care facility is a facility organization within VHA that provides health care or treatment directly to an individual. This includes medical centers, community-based outpatient clinics (CBOCs), Readjustment Counseling Centers (i.e., Vet Centers), and Community Living Centers (CLC).

## **5. RESPONSIBILITIES OF THE UNDER SECRETARY FOR HEALTH**

The Under Secretary for Health, or designee, is responsible for ensuring:

a. A VHA Notice of Privacy Practices compliant with the content requirements of the HIPAA Privacy Rule is created and maintained (see par. 6).

b. A Notice of Privacy Practices, as outlined in this Handbook, is provided to Veterans, other beneficiaries who receive health care benefits from VHA, and non-Veteran patients who receive care at a VHA health care facility.

c. VHA personnel only use PHI contained in Veteran records, or non-Veteran patient records, maintained by VHA for purposes covered by VHA Notice of Privacy Practices in Appendix A.

d. VHA personnel only disclose PHI contained in Veteran records, or non-Veteran patient records, maintained by VHA for purposes covered by VHA Notice of Privacy Practices in Appendix A.

e. VHA personnel only disclose PHI contained in records maintained by VHA about Veterans, beneficiaries, or non-Veteran patients for purposes covered by VHA Notice of Privacy Practices when appropriate legal authority exists.

f. Veterans, beneficiaries, or non-Veteran patients are informed of their rights to exercise any of the privacy rights as outlined in the VHA Notice of Privacy Practices related to their PHI maintained in VHA records.

## **6. RESPONSIBILITIES OF THE VHA PRIVACY OFFICE**

The VHA Privacy Office owns the VHA Notice of Privacy Practices (see App. A) and ensures its compliance with content requirements.

a. The goal of the VHA Notice of Privacy Practices is to:

(1) Inform individuals of the ways in which VHA may use and disclose their health information with or without their authorization, and that other uses require the individual's written authorization;

(2) Notify individuals of their rights to access, inspect, amend, and restrict their health information; and

(3) Inform individuals of VHA's legal obligations to maintain the privacy of their health information.

b. The VHA Notice of Privacy Practices needs to effectively communicate to the recipients VHA's legal requirements to:

(1) Ensure the privacy of PHI;

(2) Provide notice of VHA's legal obligations and privacy practices with respect to their PHI; and

(3) Communicate VHA's responsibility to follow the terms of the VHA Notice of Privacy Practices that is currently in effect.

## 7. RESPONSIBILITIES OF THE FACILITY PRIVACY OFFICER

The facility Privacy Officer has responsibility to:

(1) Communicate to the administrative clerks or the Principle Investigator for the research study the process for obtaining the acknowledgement form as outlined in this handbook.

(2) Perform a quarterly review using the encrypted emails received from the administrative clerks or the Principle Investigator for the research study to validate that the signed acknowledgement form of non-Veterans were scanned into the non-Veteran's CPRS record or an appropriate progress note was entered into the non-Veteran's CPRS record.

## 8. NOTICE OF PRIVACY PRACTICES CONTENT

The VHA Notice of Privacy Practices must meet the content requirements of the HIPAA Privacy Rule as described in the following paragraphs.

a. **General Requirements.** This notice must contain:

(1) A paragraph, either as a header or otherwise prominently displayed, stating:

“THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.”

(2) A statement that VHA is required by law to maintain the privacy of PHI and to provide individuals with notice of VHA's legal obligations and privacy practices with respect to PHI.

(3) A statement that VHA is required to abide by the terms of the notice.

(4) The title and telephone number of a person or office to contact for further information.

(5) The date when the notice is first in effect. This date may not be earlier than the date on which the notice is printed or otherwise published.

b. **Use and Disclosure of Health Information**

(1) The notice must state that an individual's health information can be used and disclosed for the purposes of treatment, payment, and health care operations without their authorization. Examples must be included in each of the descriptions.

(2) The notice must describe all the other purposes in which VHA is permitted or required to use or disclose an individual's PHI without the individual's authorization. Descriptions must contain sufficient detail so that the individual reading the notice understands the permitted uses and disclosures of their information.

(3) If a use or disclosure described in the notice is limited by other applicable law, the description of such use or disclosure must reflect the more stringent law.

(4) The notice must contain a statement that all other uses and disclosures of PHI are to be made only with the individual's written authorization, and that the individual may revoke such authorization.

(5) If VHA intends to engage in any of the following activities, a description of the use and disclosure is required in the notice:

(a) Contact the individual to provide appointment reminders or information about treatment alternatives or other health-related benefits and services that may be of interest to the individual;

(b) Contact an individual to raise funds for VHA; or

(c) Disclose PHI to the sponsor of the plan when the individual is a member of a group health plan, a Health Maintenance Organization (HMO) or a health insurance issuer for payment purposes.

c. **Individual's Rights.** The notice must contain a statement of the individual's rights with respect to PHI and a brief description of how the individual may exercise these rights. The following rights must be described in the notice:

(1) The right to review and receive a copy of their PHI;

(2) The right to receive confidential communications of PHI;

(3) The right to request an amendment to their PHI;

(4) The right to receive an accounting of disclosures of their PHI;

(5) The right to request restrictions on certain uses and disclosures of their PHI, including a statement that VHA is not required to agree to a requested restriction; and

(6) The right to receive a printed copy of the VHA Notice of Privacy Practices, upon request, even if the individual has agreed to receive the notice electronically.

d. **Changes to the Notice.** The notice must contain a statement that VHA reserves the right to change the terms of the notice and to make the new notice provisions effective for all PHI VHA maintains. A description of how the revised notice is to be disseminated and communicated to the individual must also be outlined in the notice.

e. **Complaints.** The notice must contain a statement that the individual may file a complaint with the facility Privacy Officer, VHA Privacy Office, the Secretary of the Department of Health and Human Services, or to the Office of Inspector General if they feel their privacy rights have been violated. The statement must include a brief description on how the individual may file a complaint and with whom, and that the individual will not be retaliated against for filing a complaint.

f. **Optional Elements.** The following are optional elements that may be included in the notice:

(1) If VHA elects to limit the uses or disclosures that it is permitted to make under the HIPAA Privacy Rule, 45 CFR Parts 160 and 164, VHA may describe its more limited uses or disclosures in the notice, provided that VHA may not include in its notice a limitation affecting its right to make a use or disclosure that is required by law.

(2) To apply a change to a more limited use and disclosure of PHI, VHA must state in the VHA Notice of Privacy Practices that they reserve the right to change their privacy practices.

g. **Language and Style of Notice.** Language and style of the notice must be organized so that the reader can easily understand it, and it needs to contain short sentences that use an active voice such as “you.”

h. **Retention.** VHA must document compliance with the notice requirements specified in the HIPAA Privacy Rule, 45 CFR §164.520, by retaining copies of the notices issued by VHA for a minimum of 6 years, or until a new notice has been written. Upon the new effective date, the previous notice may be destroyed by appropriate means.

## 9. DISSEMINATION OF NOTICE

a. The VHA Notice of Privacy Practices is available on VA’s Web site at: [http://www1.va.gov/vhapublications/viewpublication.asp?pub\\_id=1089](http://www1.va.gov/vhapublications/viewpublication.asp?pub_id=1089). Facility personnel can provide a printed copy of this notice or, a ‘large print’ copy of the notice, in response to an individual’s request. **NOTE:** *The large print copy needs to be in a pitch size of 20.*

b. VHA health care facilities are required to post the current VHA Notice of Privacy Practices in effect in a clear prominent location where it is reasonable to expect that individuals seeking service will be able to read the notice (e.g., Release of Information (ROI) Office, Eligibility Office).

c. The VHA Notice of Privacy Practices can be provided to a individual by e-mail if the individual requests it, however, if the e-mail transmission fails, a paper copy of the notice must be provided instead. Therefore, it is recommended that most notices be provided to the individual through the Web site or by a printed copy.

d. The VHA Notice of Privacy Practices must be made available by the VHA health care facility upon request of a Veteran or other non-Veteran patient. All written requests for a copy of the notice need to be referred to the facility Privacy Officer, or Health Information Management Service (HIMS). Otherwise, VHA personnel need to provide a copy of the notice upon verbal request from the individual. Copies of the notice are available to all VHA health care facilities in one, or both, of the following ways:

(1) VHA must provide a copy of the VHA Notice of Privacy Practices to all of the facilities, thereafter it is the responsibility of the facility to keep copies available for distribution in response to an individual's request.

(2) Facilities may re-stock their copies of the notice by submitting VA Form 7700c, Stock Replenishment Request, to the appropriate Publications Officer.

## **10. VHA NOTICE OF PRIVACY PRACTICES TO VETERANS AND BENEFICIARIES**

a. VHA must provide a copy of its VHA Notice of Privacy Practices to all Veterans enrolled in VHA health care and all Veterans who receive care or treatment from VHA, but are not required to enroll.

(1) A VHA Notice of Privacy Practices must be included with other enrollment information sent to newly enrolled Veterans by the Health Eligibility Center (HEC).

(2) A VHA Notice of Privacy Practices must be provided to any Veteran who requests medical treatment or care at the time they apply for enrollment in person at a VHA health care facility.

b. VHA must provide a copy of its Notice of Privacy Practices to any beneficiary of a VHA program that provides health care benefits to individuals other than Veterans (e.g., CHAMPVA, Spina Bifida, Children of Women Vietnam Veterans). The Health Administration Center (HAC) must ensure that beneficiaries of those programs receive a Notice of Privacy Practices upon enrollment.

c. VHA must notify currently enrolled Veterans and beneficiaries of the availability of the VHA Notice of Privacy Practices and directions on how to obtain a copy no less than once every 3 years.

d. No less than once every 3 years, VHA must prominently post its Notice of Privacy Practices on its public Web site, and make the notice available electronically through the Web site. This includes the Web site for any programs that provide health care benefits to individuals other than Veterans.

## 11. VHA NOTICE OF PRIVACY PRACTICES TO NON-VETERAN PATIENTS

a. VHA must provide a copy of its VHA Notice of Privacy Practices to all non-Veteran patients (e.g., active duty personnel or those seeking care in humanitarian circumstances) receiving care or treatment at a VHA health care facility or non-Veteran research subjects enrolled in an approved VHA research study with clinical trials.

(1) VHA health care facilities must provide the VHA Notice of Privacy Practices at the episode of care when the non-Veteran patient checks in for their treatment or care (with or without an appointment), attends their first research visit, or when the non-Veteran patient is admitted to the medical facility. If the non-Veteran patient is seen in the Emergency Department, the VHA Notice of Privacy Practices needs to be provided prior to the completion of the episode of care or a note is to be written in the Computerized Patient Record System (CPRS) documenting the reason the VHA Notice of Privacy Practices was not given.

(2) Pharmacy and laboratory appointments are not considered episodes of care; therefore, a VHA Notice of Privacy Practices is not required to be provided to the non-Veteran patient or non-Veteran research subject during these appointments.

b. The non-Veteran patient must acknowledge receipt of the VHA Notice of Privacy Practices.

(1) VHA must make a good faith effort to obtain a written acknowledgment of receipt of the VHA Notice of Privacy Practices as described in subparagraph 10c(3). This acknowledgement is only required to be obtained at the first episode of care.

(2) If an acknowledgement of VHA Notice of Privacy Practices is not received from the non-Veteran patient, an administrative note must be entered into CPRS indicating the good faith efforts made to obtain the written acknowledgement and the reason(s) why the acknowledgment was not received. The CPRS note needs to be written by the administrative clerk responsible for registering the non-Veteran patient or by a member of the research team who obtains the non-Veteran research subject's informed consent.

(3) In situations where the non-Veteran has a personal representative, the VHA Notice of Privacy Practices may be given to, and the written acknowledgment obtained from, the personal representative.

c. The process for obtaining an acknowledgement for the receipt of the VHA Notice of Privacy Practices is as follows:

(1) Acknowledgement of receipt of the VHA Notice of Privacy Practices is accomplished when a non-Veteran patient is admitted or checked in for an appointment. In an emergency treatment situation, the VHA Notice of Privacy Practices is given and the acknowledgement of receipt obtained as soon as reasonably practical after the emergency treatment situation has ended. **NOTE:** *Subparagraph 10c does not apply to Veterans as they have already received their copy of the VHA Notice of Privacy Practices in the mail according to subparagraph 10b.*

(2) The administrative clerk for the area where they work or the Principal Investigator for the research study is responsible for having the acknowledgement page signed and dated by the non-Veteran patient or non-Veteran research subject (see App. B).

(3) The non-Veteran patient or non-Veteran research subject is given the VHA Notice of Privacy Practice to take with them (see App. A).

(4) After the non-Veteran has signed the acknowledgement the administrative clerk or the Principal Investigator for the research study will send an encrypted email to the facility Privacy Officer with the full name of the non-Veteran and the non-Veteran's last four of the social security number.

(5) The signed acknowledgment page must be sent to the scanning department HIMS. HIMS scans the acknowledgment into the non-Veteran CPRS record as "Notice of Privacy Practices Acknowledgment" under the administrative tab.

(6) In a research situation, the Principal Investigator must maintain a copy of the acknowledgement in the subject's research record.

## 12. REVISION OF NOTICE

a. The VHA Notice of Privacy Practices must be promptly revised and re-distributed whenever there is a material change to:

- (1) VHA's use or disclosure of PHI;
- (2) The individual's privacy rights;
- (3) VHA's legal duties with regards to protecting the privacy of health information; or
- (4) To other privacy practices stated in the notice.

*NOTE: Except when required by law, a material change to any term of the notice may not be implemented prior to the effective date of the notice in which such material change is reflected.*

b. Within 60 days of a material revision, the VHA Notice of Privacy Practices must be distributed to all Veterans and their beneficiaries who are enrolled for VHA services, through the United States Postal Service, or other VHA-approved process. Either on or after the effective date of the revised notice, the new notice must be made available upon request of an individual and must be posted where it is reasonable to expect individuals seeking service from a VHA health care facility will be able to read the notice.

## 13. REFERENCES

- a. VHA Directive 1605.
- b. HIPAA Privacy Rule, Title 45, Code of Federal Regulations (CFR) Parts 160 and 164.

**October 14, 2010**

**V HA HANDBOOK 1605.04  
APPENDIX A**

**INFORMATION BULLETIN (IB) 10-163, NOTICE OF PRIVACY PRACTICES**



IB 10-163 Notice of  
Privacy Practices.pdf

**VA FORM 10-0483, ACKNOWLEDGEMENT OF THE NOTICE OF PRIVACY  
PRACTICES**

A copy of Department of Veterans Affairs (VA) Form 10-0483, Acknowledgement of the Notice of Privacy Practices, is found below. This form can also be found on the VA Forms web site at: <http://vaww.va.gov/vaforms>.



VA Form  
10-0483-fill.pdf