

UNCLASSIFIED//

MARADMIN 308/11

MSGID/GENADMIN/CMC WASHINGTON DC HS//

SUBJ/COMMANDER ACCESS TO HEALTH INFORMATION//

REF/A/MSGID: 45 CFR 160 AND 164/YMD:20020802//

REF/B/MSGID: DODI 6025.18/YMD:20091202//

REF/C/MSGID: DOD 6025.18-R/YMD:20030124//

REF/D/MSGID: DOD 5400.11-R/YMD:20070514//

REF/E/MSGID: DODD 6490.02E/YMD:20090824//

REF/F/MSGID: DOC/ASD (HA)/YMD:20090702//

REF/G/MSGID: MSG/CMC WASHINGTON DC DMCS/142042ZAPR11//

NARR/REF (A) IS THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) PRIVACY RULE PROMULGATED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, REF (B) IS DIRECTIVE ON "PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION IN DOD HEALTH CARE PROGRAMS", REF (C) IS "DOD HEALTH INFORMATION PRIVACY REGULATION", REF (D) IS "DEPARTMENT OF DEFENSE PRIVACY PROGRAM", REF (E) IS DIRECTIVE ON "COMPREHENSIVE HEALTH SURVEILLANCE" REF (F) IS DIRECTIVE TYPE MEMORANDUM 09-006 "REVISING COMMAND NOTIFICATION REQUIREMENTS TO DISPEL STIGMA IN PROVIDING MENTAL HEALTH CARE TO MILITARY PERSONNEL," REF G IS MARADMIN 240/11, 24TH EXECUTIVE FORCE PRESERVATION BOARD RESULTS.//
POC/FREDERICK KASS/CAPTAIN, MC, USN/HQMC-HS/COMM: 703-614-4477/DSN: 224-4477//

GENTEXT/REMARKS/1. AS DIRECTED IN REF G, THIS MARADMIN PROVIDES SUMMARY INFORMATION ON COMMANDER'S ACCESS TO HEALTH INFORMATION REGARDING MARINES WITHIN THEIR COMMAND. IT HAS BEEN COORDINATED WITH AND APPROVED BY THE NAVY BUREAU OF MEDICINE AND SURGERY AND THE SURGEON GENERAL OF THE NAVY. NAVY MEDICINE GUIDANCE ON THIS TOPIC TO MEDICAL PERSONNEL IS BEING DEVELOPED FOR CONCURRENT DISTRIBUTION.

2. COMMANDERS RELY ON AN ACCURATE AND CURRENT ASSESSMENT AND VISIBILITY OF THE READINESS OF THEIR MARINES AND SAILORS, INCLUDING THEIR PHYSICAL AND PSYCHOLOGICAL HEALTH. MUCH OF THIS INFORMATION IS COLLECTED AND MAINTAINED BY MEDICAL PERSONNEL. THE SHARING OF MEDICAL INFORMATION, SOME OF WHICH IS SENSITIVE, IS GOVERNED BY SPECIFIC RULES OF ENGAGEMENT (REFERENCES A-F). GIVEN THE COMPLEXITY OF THESE RULES MANY LEADERS AND MEDICAL PERSONNEL DO NOT FULLY UNDERSTAND WHAT INFORMATION CAN BE MADE AVAILABLE TO LEADERS AND UNDER WHAT CIRCUMSTANCES. THIS MARADMIN SUMMARIZES THE RULES OF ENGAGEMENT ON MEDICAL INFORMATION SHARING IN ORDER TO STRENGTHEN THE MEDICAL-COMMAND LINKAGE. GIVEN THE SUMMARY NATURE OF THIS DOCUMENT, LEADERS AND MEDICAL PERSONNEL SHOULD REVIEW THE REFERENCES IN THEIR ENTIRETY.

3. PROTECTED HEALTH INFORMATION (PHI) IS INFORMATION THAT IS CREATED OR RECEIVED BY A COVERED ENTITY AND RELATES TO THE PAST, PRESENT, OR FUTURE PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL AND CAN BE USED TO IDENTIFY THE INDIVIDUAL. INDIVIDUALS AND INSTITUTIONS THAT MUST FOLLOW THE HIPAA REGULATIONS ARE REFERRED TO AS COVERED ENTITIES. SALIENT COVERED ENTITIES INCLUDE:

A. HEALTH PLANS, INCLUDING HEALTH INSURANCE COMPANIES, HMOS, COMPANY HEALTH PLANS, AND CERTAIN GOVERNMENT PROGRAMS THAT PAY FOR HEALTH CARE, SUCH AS MEDICARE AND MEDICAID.

B. HEALTH CARE PROVIDERS, INCLUDING DOCTORS, CLINICS, HOSPITALS, PSYCHOLOGISTS, CHIROPRACTORS, NURSING HOMES, PHARMACIES, AND DENTISTS.

4. A SERVICE MEMBER'S AUTHORIZATION IS NOT REQUIRED PRIOR TO RELEASING PHI TO A MILITARY COMMAND AUTHORITY IF THE INFORMATION IS NEEDED TO DETERMINE THE IMPACT OF THE MEMBER'S HEALTH STATUS ON THE COMMAND'S READINESS AND MILITARY MISSION. A COVERED ENTITY NEED NOT FIRST OBTAIN AUTHORIZATIONS FROM INDIVIDUALS WHO ARE ARMED FORCES PERSONNEL TO USE OR DISCLOSE THEIR PHI FOR ACTIVITIES DEEMED NECESSARY BY APPROPRIATE MILITARY COMMAND AUTHORITIES TO ASSURE THE PROPER EXECUTION OF THE MILITARY MISSION.

A. MANY MARINE LEADERS DO NOT MEET THE QUALIFICATIONS OF AN APPROPRIATE MILITARY COMMAND AUTHORITY. APPROPRIATE MILITARY COMMAND AUTHORITIES ARE COMMANDING OFFICERS OR OTHER PERSON DESIGNATED, TYPICALLY IN WRITING, BY THAT COMMANDING OFFICER TO RECEIVE PHI TO CARRY OUT A MILITARY ACTIVITY. TO QUALIFY AS AN APPROPRIATE MILITARY COMMAND AUTHORITY, THE COMMANDING OFFICER OR APPROPRIATE DESIGNEE GENERALLY MUST BE IN THE INDIVIDUAL'S CHAIN OF COMMAND.

B. CIVILIAN COVERED ENTITIES MAY ALSO SHARE PHI TO MILITARY COMMAND AUTHORITIES IN CIRCUMSTANCES IN WHICH A MEMBER'S HEALTH STATUS IS LIKELY TO AFFECT THE MEMBER'S ABILITY TO COMPLETE HIS OR HER MILITARY MISSION. TO IMPROVE THE QUALITY AND TIMELINESS OF INFORMATION COMMUNICATED FROM CIVILIAN COVERED ENTITIES, COMMAND AUTHORITIES ARE ENCOURAGED TO DEVELOP MEMORANDA OF AGREEMENT/UNDERSTANDING WITH CIVILIAN INSTITUTIONS THAT FREQUENTLY PROVIDE MEDICAL SERVICES TO MARINES AND SAILORS.

C. ACTIVITIES THAT QUALIFY AS MILITARY MISSION INCLUDE:

1. DETERMINING THE MEMBER'S FITNESS, INCLUDING COMPLIANCE WITH STANDARDS AND ACTIVITIES IN SPECIFIED DOD DIRECTIVES, AND SIMILAR REQUIREMENTS.

2. DETERMINING FITNESS TO PERFORM ANY PARTICULAR MISSION, ASSIGNMENT, ORDER, OR DUTY, INCLUDING COMPLIANCE WITH ANY ACTIONS REQUIRED AS A PRECONDITION TO PERFORMANCE THEREOF.

3. CARRYING OUT COMPREHENSIVE MEDICAL SURVEILLANCE ACTIVITIES (REF E).

4. REPORTING ON CASUALTIES IN CONNECTION WITH A MILITARY OPERATION OR ACTIVITY ACCORDING TO APPLICABLE MILITARY REGULATIONS OR PROCEDURES.

5. CARRYING OUT ANY OTHER ACTIVITY NECESSARY TO PROPER EXECUTION OF THE MILITARY MISSION.

6. MEDICAL APPOINTMENT REMINDERS CONCERNING ARMED FORCES PERSONNEL ARE PERMITTED TO BE SHARED WITH COMMAND AUTHORITIES. COMMAND AUTHORITIES AND/OR THEIR DESIGNEE MAY REQUIRE NOTIFICATION OF MEDICAL APPOINTMENTS FOR ARMED FORCES PERSONNEL TO DETERMINE FITNESS FOR DUTY AND TO ENSURE PROPER EXECUTION OF THE MILITARY MISSION. MEDICAL APPOINTMENT NOTIFICATIONS INCLUDE TREATMENT REMINDERS (PHYSICALS, IMMUNIZATIONS, LABORATORY, ETC.) AND NOTIFICATIONS OF MISSED AND CANCELLED APPOINTMENTS. FOR COMMAND AUTHORITIES, THE INFORMATION ON MEDICAL APPOINTMENT REMINDERS DOES NOT INCLUDE THE RIGHT TO KNOW THE SPECIFIC CLINIC (FOR EXAMPLE MENTAL HEALTH) IN WHICH THE SERVICE MEMBER HAS AN APPOINTMENT SCHEDULED.

5. PHI SHOULD BE PROVIDED BY COVERED ENTITIES IN RESPONSE TO PROPER REQUESTS BY APPROPRIATE MILITARY COMMAND AUTHORITIES. ANY DISCLOSURE OF PHI TO COMMAND AUTHORITIES MUST BE LIMITED TO THE MINIMUM NECESSARY TO ACCOMPLISH ASSESSMENT OF THE IMPACT OF THE MEMBER'S HEALTH STATUS ON THE MILITARY MISSION. DISCLOSURE OF PHI TO COMMAND AUTHORITIES SHOULD ONLY BE ON A NEED-TO-KNOW BASIS.

6. SPECIAL RULES APPLY TO DISCLOSURE OF PHI RELATING TO MENTAL HEALTH OR SUBSTANCE ABUSE PROBLEMS. FOR THESE CONDITIONS PROVIDERS "SHALL PROVIDE THE MINIMUM AMOUNT OF INFORMATION TO SATISFY THE PURPOSE OF THE DISCLOSURE. IN GENERAL, THIS SHALL CONSIST OF THE DIAGNOSIS; A DESCRIPTION OF THE TREATMENT PRESCRIBED OR PLANNED IMPACT ON DUTY OR MISSION, RECOMMENDED DUTY RESTRICTIONS, AND THE PROGNOSIS."

7. MTF'S ARE RESPONSIBLE FOR ESTABLISHING POLICIES AND PROCEDURES REGARDING THE USE AND DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION TO COMMANDS AND OTHER COVERED ENTITIES. AT A MINIMUM MEDICAL TREATMENT FACILITIES SHOULD:

A. MAINTAIN AN APPROVED ROSTER OF COMMANDERS AND OTHER PERSONS WHO MAY ACCESS UNIT MEMBERS PHI ON THE COMMANDER'S BEHALF.

B. DEVELOP CRITERIA FOR REQUESTS TO ENSURE RELEASE OF ONLY THE MINIMUM NECESSARY PHI (FOR EXAMPLE, CASES REQUIRING A CLINICAL SUMMARY RATHER THAN THE ENTIRE MEDICAL RECORD).

C. ESTABLISH A POLICY TO DESIGNATE AUTHORITY, WITHIN AN MTF, FOR RELEASE OF PHI.

D. ENSURE PROPER TRAINING OF PERSONNEL ON THE TYPES OF INFORMATION THAT QUALIFY AS PHI AND THE CIRCUMSTANCES THAT REQUIRE AN ACCOUNTING FOR PHI DISCLOSURE.

E. ENSURE THAT LOCAL POLICIES AND PROCEDURES INCLUDE CONSIDERATION OF CIRCUMSTANCES THAT DUTY CREWS ENCOUNTER. EDUCATE PERSONNEL ON LOCAL POLICIES CONCERNING ROUTINE PHI REQUESTS FROM COMMANDERS NECESSARY FOR MILITARY MISSION IMPACT DETERMINATIONS.

8. COMMAND AUTHORITIES ARE NOT ALLOWED ACCESS TO PHI REGARDING A SERVICE MEMBER'S FAMILY EVEN IN THE CASE WHEN THE ACTIONS AND/OR CONDITIONS OF A FAMILY MEMBER MAY NEGATIVELY IMPACT THE SERVICE MEMBER'S ABILITY TO PERFORM HIS/HER MILITARY MISSION.

9. COMMANDERS ARE ENCOURAGED TO WORK WITH THEIR LOCAL MEDICAL TREATMENT FACILITY LEADERSHIP TO CREATE GUIDELINES AND PROCEDURES, ALIGNED WITH REFERENCE (A-F), THAT ENHANCE EFFECTIVE COMMUNICATION TO OPTIMALLY MEET THE NEEDS OF THE MARINE OR SAILOR, THE COMMANDER AND THE MEDICAL TREATMENT FACILITY. SUCH EFFORTS HAVE THE POTENTIAL TO SIGNIFICANTLY AID THE COMMANDERS' ABILITY TO TRULY KNOW THEIR MARINES AND SAILORS.

10. POC FOR THIS MESSAGE IS FREDERICK KASS, HQMC-HS, CAPTAIN, MEDICAL CORPS, FREDERICK.KASS@USMC.MIL OR (703) 614-4477.

11. RELEASE APPROVED BY RDML M. H. ANDERSON, DIRECTOR, HEALTH SERVICES.//