

Privacy and HIPAA Focused Training (2017)

Lesson 00: Welcome and Introduction

Welcome

Welcome to the **Privacy and HIPAA Focused Training Web Site**. This course is designed to be finished in 50-60 minutes.

Note: *If you experience technical problems or need assistance while you are going through the training contact the VA Talent Management System (TMS) Help Desk at vatmshelp@va.gov or Monday through Friday between 08:00A - 10:00P at 1-866-496-0463*

Audience

All staff with direct access to protected health information (PHI) or access to PHI through VHA computer systems is required to complete this training annually.

All new employees with direct access to PHI or access to PHI through VHA computer systems are required to take this training within 30 days of hire or prior to the employee being allowed access to PHI in any format, whichever is earlier.

A team of subject matter experts from the VHA Privacy Office have created this training.

Lesson 01: Basic Privacy Statutes and Employee Responsibilities

Basic Privacy Statutes and Employee Responsibilities

Lesson Objectives

In this module, you will learn about the background and scope of applicable privacy and confidentiality statutes and regulations. Specifically you will learn the following:

- Seven statutes that govern the collection, maintenance and release of information from Veterans Health Administration (VHA) records,
- Employee responsibility in the use and disclosure of information,
- Unauthorized Use, Access or Disclosure of Personally Identifiable or Protected Health Information, and
- Functional Categories and Minimum Necessary Standard



Basic Privacy Statutes

VHA health care facilities should comply with all statutes simultaneously so that the result will be application of the most stringent provision for all uses and/or disclosures of data and in the exercise of the greatest rights for the individual.

The Privacy Act (PA), 5 U.S.C. §552a

The Privacy Act of 1974, 5 U.S.C. § 552a, establishes a code of fair information practices that governs the collection, maintenance, use, and dissemination of information about individuals that is maintained in systems of records by federal agencies.

Health Insurance Portability and Accountability Act (HIPAA) and its implementing regulation the HIPAA Privacy Rule

The HIPAA Privacy Rule provides federal protections for personal health information held by covered entities and gives patients an array of rights with respect to that information. At the same time, the Privacy Rule is balanced so that it permits the disclosure of personal health information needed for patient care and other important purposes.

Health Information Technology for Economic and Clinical Health (HITECH) Act

The Health Information Technology for Economic and Clinical Health (HITECH) Act addresses the privacy and security concerns associated with the electronic transmission of health information.

38 U.S.C. §5701 VA Claims Confidentiality Statute

38 U.S.C. §5701 makes VA benefits records and the names and home addresses of present and former armed forces personnel and their dependents confidential.

38 U.S.C. §5705 Confidentiality of Healthcare Quality Assurance Review Records

38 U.S.C. §5705 Confidentiality of Healthcare Quality Assurance Review Records makes information and records generated by VA's medical quality assurance program confidential and privileged and exempt from disclosure under the FOIA.

38 U.S.C. §7332 Confidentiality of Certain Medical Records

38 U.S.C. §7332 makes strictly confidential all VA records that contain the identity, diagnosis, prognosis or treatment of VA patients or subjects for drug abuse, alcoholism or alcohol abuse, infection with human immunodeficiency virus (HIV/AIDS), or Sickle Cell Anemia.

The Freedom of Information Act (FOIA), 5 U.S.C. §552

The FOIA requires Federal departments and agencies, such as VA, to release their records unless FOIA specifically exempts the information or record from disclosure.

Employee responsibility in the use and disclosure of information

- VHA employees must comply with all Federal laws and regulations, VA regulations and policies, and VHA policies regarding the confidentiality and privacy of Veteran and employee records. In addition, all VHA employees must conduct themselves in accordance with the rules of ethical conduct.
- Personally identifiable information (PII) and protected health information (PHI) on Veterans and employees should only be collected, accessed or viewed by VHA employees with a need for that information in the performance of their official VA duties for payment, treatment or health care operations. VHA employees **are prohibited from** accessing or viewing the PII/PHI of their coworkers or Veterans out of curiosity. Employees must only access health information for purposes that are related to their official VA duties for payment, treatment or health care operations. Also, Supervisors **may not** view the health records of their employees who are Veterans to look at their clinic appointments or other health information for employment-related purposes.
- VHA employees who collect, access or view PII/PHI on Veterans or employees for purposes other than those for official VA duties, including curiosity, are subject to disciplinary action. Even if the VHA employee had good intentions in accessing or viewing the Veteran or employee information, such as to look up a home address to send a sympathy card, it is a privacy breach and disciplinary action may result.



Unauthorized Use, Access or Disclosure of Personally Identifiable or Protected Health Information

The following are examples of unauthorized use and/or access that will result in appropriate disciplinary action:

- Accessing information outside the scope of your functional category.
- Checking a co-worker's health record upon their request without an official need to know.
- Checking family members' health records without an official need to know.
- Checking Veteran's or employee's health records out of curiosity.
- Supervisors can no longer access their employee Veterans' health records under the Privacy Act (b(1)), "need to know."
- Removing III/PHI from the facility without permission from supervisor/facility director
- Repeating information to VA employees outside of your job responsibilities is a privacy violation. Examples include co-workers and the unions.

The following are potential administrative actions that may be taken by the supervisor with guidance from Human Resources:

- Reprimand being placed in personnel file,
- Suspension from job,
- Demotion, or job loss,
- Civil or criminal prosecution, or
- Fines or imprisonment

Functional Categories and Minimum Necessary Standard

VHA Handbook 1605.02 "Minimum Necessary Standard for Protected Health Information" discusses the requirement for assignment of functional categories. HIPAA mandates that VHA identify the persons, or classes of persons, who need access to protected health information to carry out their duties, the categories of protected health information to which access is needed, and any conditions under which they need the information to do their jobs.

VHA personnel must be assigned a functional category by their supervisor upon initial hire, position change, and annually thereafter to review the applicability of access to protected health information to their official job duties. Every employee is responsible for knowing and adhering to their functional category.

VA form 10-0539, "Assignment of Functional Categories" is found in *VHA Handbook 1605.02 Appendix E* and can be used to assign functional categories. **Employees and supervisors must sign and date the form annually.**

The form is not required to be used but, if it is not used a documented process must be in place to ensure compliance. Refer to your local facility Privacy Officer for additional guidance.

Department of Veterans Affairs		Assignment of Functional Categories	
Employee's Name:		Job Title:	
Department/Service Assigned:			
If employee falls into more than one functional category listed below, access should be granted based on the less restrictive category to meet the need of an intended purpose.			
This table shows access or non access to PHI in regards to functional category, it does not show if a user needs access to their own System of Records in order to complete their job functions.			
Immediate Supervisor: Check off functional category, review with employee, obtain signatures, and maintain copy in the Supervisor's Personnel Files (RCS 10-1, 05-3) for the individual employee.			
<input type="checkbox"/> Access or use of Protected Health Information (PHI) not required (EMS, Veterans Canteen Service, Mailroom Employee, etc.)			
Functional Categories (Class of Persons)	Type of Protected Health Information Accessible	Allowable Systems of Records for Limited Access	Conditions for Access to Information
<input type="checkbox"/> Direct Care Providers	Entire Medical Record		Treatment of Individuals
<input type="checkbox"/> Department of Veterans Affairs (VA) Researchers	Entire Medical Record including research records		Activities as approved by an Institutional Review Board or Privacy Board, preparatory to research
<input type="checkbox"/> Indirect Care Providers	Entire Medical Record		In support of treatment of individuals
<input type="checkbox"/> Business Office Administrative	Entire Medical Record		In support of payment of individuals care
<input type="checkbox"/> Health Information Support Services	Entire Medical Record		Assign diagnostic codes to transcribe, file, release information, and provide or input registry data

Knowledge Check 1.1

Barbara just started working at the VHA healthcare facility and will be working at the auditory clinic check-in desk. She just attended new employee orientation and wants to make sure she follows the rules regarding her use and access of PHI so she asks her supervisor.

What should her supervisor do?

- a) Tell Barbara that if she has computer access she can look at anything she wants to.
- b) Discuss the minimum necessary standard and explain Barbara's functional category.
- c) Make Barbara attend new hire orientation again because she clearly wasn't paying attention.

[Click to check your answer.](#)

Knowledge Check 1.2

You are a fan of an athlete who was recently admitted to your VHA facility. You have no need to know the athlete's information in relation to your official job responsibilities but you want to make sure his condition is not going to negatively impact your fantasy baseball league.

What do you do?

- a) Quickly check very limited information in his health record.
- b) Don't look into his record because you have no need to know this information in relation to your official job responsibilities for payment, treatment or health care operations.
- c) Peek into the record to check the information, after all other people do and it won't cause him harm.
- d) Convince your friend, who is his nurse, to look into the record so you can pick another athlete for your fantasy baseball league.

[Click the check your answer.](#)

Lesson 02: Veterans Rights

Module 2 - Veterans Rights

Lesson Objectives

In this module you will learn about the rights granted to Veterans by the Privacy Act and the HIPAA Privacy Rule. When the Privacy Act and the HIPAA Privacy Rule are in conflict, the regulation that grants the Veteran the most rights is used.

Specifically, you will learn about the Veterans right to:

- A Notice of Privacy Practices (NoPP),
- A copy of their own Protected Health Information,
- Request an amendment to health records,
- Request an Accounting of Disclosures,
- Request and receive confidential communications,
- Request restriction of use or disclosure of records, and
- File a complaint



IMPORTANT: These rights extend to the personal representative of a deceased individual (e.g. Executor of the Estate, Next of Kin).

Employees must protect PHI about a deceased individual in the same manner and to the same extent as that of living individuals for as long as the records are maintained.

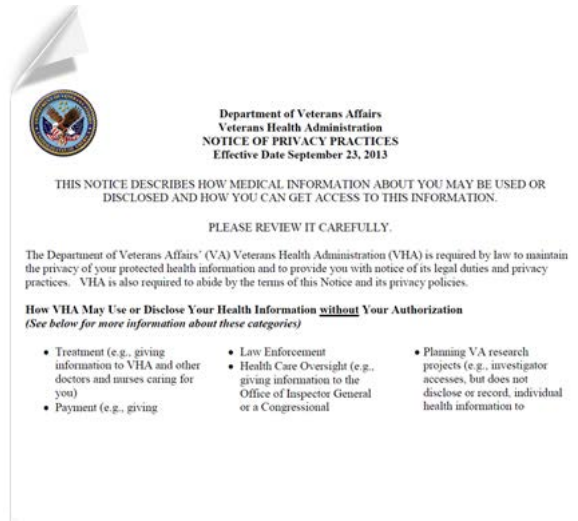
Notice of Privacy Practices (NoPP)

A Veteran or Non-Veteran receiving treatment has the right to receive a copy of the VHA Notice of Privacy Practices (NoPP). All newly registered Veterans are mailed a Notice of Privacy Practices by the Health Eligibility Center (HEC). The VHA Privacy Office is responsible for updating the NoPP and ensuring Veterans are provided the NoPP every three years or when there is a significant change.

This notice includes the uses and disclosures of his/her protected health information by VHA, as well as the Veteran's rights and VHA's legal responsibilities with respect to protected health information. There is one NoPP for all of VHA.

A copy of the NoPP, as well as answers to questions about the NoPP, and information on Non-Veteran requirements for the NoPP can be obtained from the Privacy Officer or at the following website:

http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=3048.



Right of Access

A Veteran has a right to obtain a copy of his or her own health record. A Veteran must submit a **signed written request** to the VHA health care facility where the record is maintained.

VHA employees should refer all requests from Veterans for copies of their records to the Release of Information (ROI) Office or to another appropriate office that has a mechanism in place to track those disclosures. Clinical providers may disclose patient information at Point of Care, without a written request, if it is for patient education purposes or discharge planning. If the Veteran is requesting their health information for previous progress notes or labs, they must submit a written request and be referred to the facility Release of Information office. Veterans requesting copies of their health records must provide sufficient information to verify their identity (e.g., driver's license or other picture identification), to ensure appropriate disclosure.



Right to Request an Amendment

The Veteran has the right to request an amendment to any information in their health record. The request must be in writing and adequately describe the specific information the Veteran believes to be inaccurate, incomplete, irrelevant, or untimely, and the reason for this belief.

The **written request** should be mailed or delivered to the VHA health care facility that maintains the record. Requests for amendments to health records should be directed to the local Privacy Officer or Chief of Health Information Management Service (HIMS). Authors of the requested amendments should work with their Privacy Officers or Chief of HIMS so that a timely response is given.



Right to an Accounting of Disclosures

A Veteran may request a list of all written disclosures of information, from his/her records. VHA facilities and program offices are required to keep an accurate accounting for each disclosure made to a party external to VHA. An accounting **is not** required to be maintained in certain circumstances, including when the disclosure is to VHA employees who have a need for the information in the performance of their official duties, if the release is to the individual to whom the record pertains, or the release of information is pursuant to a FOIA request.

Entry of a VA patient by name or other identifier into a State Prescription Drug Monitoring program is considered a disclosure that must be accounted for. The employee making the disclosure must do the accounting of disclosures; this can be done through creating a note in CPRS or accounting for the disclosure manually. Work with your VHA facility Chief of HIMS for additional guidance.

Electronic batch reporting by the IT system will capture the information that can be used to generate the accounting of disclosures retrospectively when requested. Check with your local OI&T for assistance with electronic batch reporting.

Department of Veterans Affairs		FILE RECORDING (if applicable)
COUNTING OF RECORDS/INFORMATION DISCLOSURE UNDER PRIVACY ACT		
NAME OF INDIVIDUAL TO WHOM THE DISCLOSURE INFORMATION PERTAINS		DATE OF DISCLOSURE
NATURE OF DISCLOSURE (include only description of each type of disclosure record disclosed)		
PURPOSE OF DISCLOSURE		
NAME AND ADDRESS OF PERSON OR AGENCY TO WHOM DISCLOSURE IS MADE		AUTHORITY FOR RELEASE OF INFORMATION (for authority of disclosure under privacy act)
NAME AND TITLE OF VA EMPLOYEE MAKING THE DISCLOSURE		

VA FORM 5572 JUN 2006 Add'l Form Designer

Knowledge Check 2.1

A patient returning for follow up of her back strain due to gardening, now insists that her provider change where the original injury occurred to at work and wants the prior visit note changed.

What should the Provider do?

- a) Make the change in CPRS
- b) Tell the patient "No."
- c) Refer the patient to the local Privacy Officer to file an amendment request.

[Click the check your answer.](#)

Knowledge Check 2.2

Joe wants to know which third parties received his protected health information from his health record for the past three years.

Can Joe request this information?

- a) No, he cannot request the information. We have no responsibility to track who we send his information to.
- b) Yes, he can request the information. As a covered entity we have an obligation track disclosures that are made to parties external to VHA.

[Click the check your answer.](#)

Right to Confidential Communications

The Veteran has the right to request and receive communications confidentially from VHA by an alternative means or at an alternative location. VHA considers an alternative means to be an in-person request, and an alternative location to be an address other than the individual's permanent address listed in Veterans Health Information Systems and Technology Architecture (Vista).

VHA shall accommodate reasonable requests from the individual to receive communications at an alternative address entered in Vista for any of the five correspondence types below:

- Eligibility or enrollment,
- Appointment or scheduling,
- Co-payments or Veteran billing,
- Health records, and
- All other

Requests to send documents or correspondence to multiple addresses will be considered unreasonable and therefore denied (all or none to one address).

Requests for confidential communications, in person or in writing, shall be referred to the appropriate office, such as eligibility or enrollment, for processing. All requests for confidential communication via e-mail will be denied.



Right to Request a Restriction

The Veteran has the right to request VHA to restrict its use or disclosure of PHI to carry out treatment, payment, or health care operations. The Veteran also has the right to request VHA to restrict the disclosure of PHI to the next of kin, family, or significant others involved in the individual's care. This request must be in writing and signed by the Veteran. Documenting in the CPRS health record does not constitute a valid restriction request.

VHA **is not required** to agree to such restrictions, but if it does, VHA must adhere to the restrictions to which it has agreed. A request for restriction should be delivered to the Privacy Officer or designee for processing.

VHA may terminate a restriction, if VHA informs the individual, in writing, that it is terminating its agreement to a restriction and that such termination is only effective with respect to protected health information created or received after VHA has so informed the individual.



Knowledge Check 2.3

Bryan tells his provider that he does not want any PHI released to anyone and is demanding his right to request a restriction.

What should the provider do?

- a) Ignore Bryan's request as he is a difficult patient and will change his mind tomorrow.
- b) Write a note in Bryan's progress note.
- c) Explain to Bryan that he needs to submit a written request for a restriction to the Privacy Officer.

[Click the check your answer.](#)

Right to Opt-Out of Facility Directory

A Veteran has the right to opt-out of the facility directory. The facility directory is used to provide information on the location and general status of a Veteran. Veterans must be in an inpatient setting in order to opt-out and thus it does not apply to the emergency room or other outpatient settings. If the Veteran opts out of the facility directory no information will be given unless required by law. The Veteran will not receive mail or flowers. If the Veteran has opted out of the directory visitors will only be directed to the Veteran's room if they already know the room number.



If the Veteran is admitted emergently and medically cannot give their opt-out preference, the provider will use their professional judgment and make the determination for the Veteran. This determination may be based on previous admissions, or by a family member who is involved in the care of the Veteran. When the Veteran becomes able to make a decision, staff is required to ask the individual their preference about opting out of the facility directory.

Knowledge Check 2.4

Tamara was admitted to the hospital and requests to be opted out of the directory. The admitting clerk explains to Tamara that she will not receive flowers or mail, etc. Tamara understands and decides to opt out of the directory. The following day, an individual calls the facility telephone operator, who is not involved in Tamara's care and wants to send flowers and asks for Tamara's room number.

What should the telephone operator's response be?

- a) Hang on just a minute while I check to see what room she is in.
- b) Tamara is here but she has opted out of the directory so I cannot tell you which room she is in.
- c) I will tell you the room she is in as long as you are not bringing in live flowers as there is a policy against that.
- d) I am sorry. I cannot confirm or deny that we have a patient in our directory by that name.

[Click the check your answer.](#)

Right to File a Complaint

Patients have a right to file a complaint if they believe that VHA has violated their (or someone else's) health information, privacy rights or committed another violation of the Privacy or Security Rule.

A complaint can be filed by contacting one or more of the following:

- The VHA health care facility's Privacy Officer, where they are receiving care,
- The VHA Privacy Office,
- Office of Inspector General, or
- The U.S. Department of Health and Human Services, Office for Civil Rights



Lesson 03: Introduction to Uses and Disclosures of Information

Module 3 - Introduction to Uses and Disclosures of Information

Lesson Objectives

In this module, you will learn about the use and disclosure purposes for release of PHI within VA that do not require a written authorization from the Veteran.

Specifically you will learn:

- Using or disclosing PHI for treatment, payment and/or health care operations (TPO),
- Disclosure of PHI without an authorization for other than TPO,
- Use of PHI for research purposes,
- Incidental Disclosures, and
- Systems of Records



Using PHI without an Authorization for Treatment, Payment, or Health Care Operations

VHA employees may use PHI on a need to know basis for their official job duties for purposes of **treatment, payment** and/or **health care operations**.

"Treatment" generally means the provision, coordination, or management of health care and related services among health care providers or by a health care provider with a third party, consultation between health care providers regarding a patient, or the referral of a patient from one health care provider to another.

"Payment" encompasses the various activities of health care providers to obtain payment or be reimbursed for their services and of a health plan to obtain premiums, to fulfill their coverage responsibilities and provide benefits under the plan, and to obtain or provide reimbursement for the provision of health care.

"Health care operations" are certain administrative, financial, legal, and quality improvement activities of a covered entity that are necessary to run its business and to support the core functions of treatment and payment.



Disclosure of PHI without an authorization for other than treatment, payment, or health care operations

For the purpose of determining a Veteran's eligibility, entitlement, and/or provision of benefits, VHA may disclose Veteran PHI to the following groups:

- Veterans Benefits Administration (VBA)
- National Cemetery Administration (NCA)
- Board of Veterans Appeals (BVA)
- VA contractors (as long as there is a business associate agreement in place)



Disclosure of PHI without an authorization for other than treatment, payment, or health care operations, continued

There are also a number of situations where VHA may disclose information, without an authorization, for other than treatment, payment, or health care operations. Examples of some of these include:

- Public Health Activities (e.g., giving information about certain diseases to government agencies)
- When Required by Law
- Research Activities (e.g., giving information to a researcher to prepare a research protocol)
- Abuse Reporting (e.g., giving information about suspected abuse of elders or children to government agencies)
- Law Enforcement
- State Prescription Drug Monitoring Program (SPDMP)



For additional information and guidance contact your Privacy Officer.

Use of PHI for Research Purposes

A VA researcher may access PHI without the subject's written authorization if the information is reviewed preparatory to research on human subjects. Only aggregate data will be recorded in the researcher's file and no PHI will be removed from VHA during the preparatory phase.

Further use or disclosure of PHI requires Institutional Review Board (IRB) approval of the research protocol, informed consent, or waiver of informed consent. In addition, the Principal Investigator (PI) must have an approved HIPAA authorization that is reviewed by the Privacy Officer or a waiver of the HIPAA authorization by the IRB or Privacy Board.

If the research involves pictures or voice recordings for other than treatment purposes, the informed consent (VA Form 10-0086) for research must include information describing any photographs, video, and/or audio recordings to be taken or obtained for research purposes, how they will be used for the research, and whether they will be disclosed outside VA. If VAF 10-0086 is waived, the researcher may use VA Form 10-3203 Consent for Production and use of Verbal or Written statements, Photographs, Digital Images, and/or Video or Audio Recording. If recording outside the presence of the patient, the study may capture the patient's consent within the actual voice recording until disposition of the entire study.



Incidental Disclosures

Many customary health care communications and practices play an essential role in ensuring that Veterans receive prompt and effective health care. Due to the nature of these communications and practices, as well as the various environments in which Veterans receive health care or other services from VHA, the potential exists for a Veteran's health information to be disclosed incidentally. For example:



- A hospital visitor may overhear a provider's confidential conversation with another provider or a patient.
- A patient may see limited information on sign-in sheets.
- A Veteran may hear another Veteran's name being called out for an appointment.
- A Veteran may see limited information on bingo boards or white boards.

NOTE: Incidental disclosures are permitted as long as reasonable safeguards to protect the privacy of the information are followed.

Many health care facilities providers and professionals have long made it a practice to ensure reasonable safeguards are in place for Veterans PHI. For instance:

- Speaking quietly when discussing a patient's condition with family members in a waiting room or other public area;
- Avoiding using patients' names in public hallways and elevators, and posting signs to remind employees to protect patient confidentiality;
- Only using last four digits of SSN on bingo boards;
- Using Veteran's ID card for identification of the patient, instead of asking for their SSN, when it is available;
- Using Kiosks, where available, when checking in for an appointment instead of lining up at the check in desk.

Knowledge Check 3.1

A researcher wants to begin a research project that involves patients suffering from traumatic brain injuries. They need to know if their facility treats enough patients to support a research protocol.

Can the researcher review individually identifiable information to determine if there are enough patients for the protocol without the individual's authorization?

- a) Yes, if the VHA Investigator is conducting a review of individually-identifiable information to prepare a research protocol written authorization of the individual is not required as long as the information is recorded/used in a manner that is not identifiable.
- b) No, researchers must always get authorization.

[Click the check your answer.](#)

Knowledge Check 3.2

Joe (Veteran) is checking in for an appointment at the Anytown Community-Based Outpatient Clinic (CBOC) and is being asked to give his full name and last four of his Social Security Number (SSN) in front of many other Veterans that are lined up at the check-in desk.

What are the appropriate precautions and safeguards the CBOC needs to exercise in order to safeguard Veterans' auditory privacy? Choose the BEST answer.

- a) Ask for the Veteran Health Identification Card (VHIC) for identification upon check-in.
- b) Only ask for the information necessary to accomplish the check-in function (e.g., Full Name and Date of Birth instead of last four of SSN).
- c) Ask other Veterans in line for check-in to wait a short distance away from the desk to allow a zone of audible privacy.
- d) Post signs alerting Veterans to auditory privacy concerns in waiting areas and the need to wait an appropriate distance behind Veterans being assisted.
- e) All of the above

[Click the check your answer.](#)

System of Records

A Privacy Act System of Records (SOR) is a group of records under the control of the agency from which information about an individual is retrieved by the name of the individual or by some other unique identifier or symbol.

- An advance public notice known as the System of Records Notice (SORN) must be published prior to an agency collecting information for a new SOR.
- Publication in the Federal Register is required to provide an opportunity for the interested person to comment.
- One SOR that is familiar in VHA is 24VA10P2—Patient Medical Records—VA.
- Within the SOR, there is a section describing routine uses (RU), which is a term that is unique to the Privacy Act and means the disclosure of a record outside of VA for a reason compatible with the purpose for which it was collected.
- Under the Privacy Act, a "routine use" gives authority to allow for disclosure outside of VA without authorization.
- For additional information on a System of Records, contact your administration or VHA health care facility Privacy Officer.



For a list of all VHA systems of records, go to <http://vaww.vhaco.va.gov/privacy/SystemofRecords.htm>.

Knowledge Check 3.3

An individual calls your facility and somehow the operator transfers the call to your office. The caller identifies himself as being from VA OIG and he is requesting information to do a review for health care oversight.

What do you do?

- a) Contact the Privacy Officer immediately so they can work with the Director's office to resolve the issue.
- b) Release the information over the phone because the VA OIG obviously has a need for this information.
- c) All of the above.

[Click the check your answer.](#)

Lesson 04: Authorization Requirements and Privacy of Photographs, Digital Imagery and Video and Audio Recordings

Module 4 - Authorization Requirements and Privacy of photographs, digital images and video and audio recordings

Lesson Objectives

In this module, you will learn the components for a valid authorization and information about the privacy of audio and video recordings.

Specifically, you will learn about:

- Authorization Requirements, and
- Privacy of photographs, digital images and video and audio recordings



Definition of Authorization

An authorization as defined by the HIPAA Privacy Rule is an individual's written permission for a covered entity to use and disclose protected health information (PHI). A written authorization is a document signed by the individual to whom the information or record pertains and may be required for use or disclosure of protected health information.

OMB Number: 2900-0201
Estimated Burden: 2 minutes

Department of Veterans Affairs		REQUEST FOR AND AUTHORIZATION TO RELEASE MEDICAL RECORDS OR HEALTH INFORMATION
<p>ONLY ONE of Paperwork Reduction Act Information: The execution of this form does not authorize the release of information other than that specifically described below. The information requested on this form is contained within 38 U.S.C. 561. This form authorizes release of information in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 45 C.F.R. 164.512, 164.514, 164.516, 164.522, and 164.532, and 38 U.S.C. 561 and 7312 that you specify. Your disclosure of the information requested on this form is voluntary. However, if the information including Social Security Number (SSN) or the SSN will be used to locate records the release is not guaranteed completely and accurately. Department of Veterans Affairs will be unable to comply with the request. The Veterans Health Administration may not condition treatment, payment, enrollment or eligibility on signing the authorization. VA may disclose the information that you put on this form as permitted by law. VA may make a "routine use" disclosure of the information as outlined in the Privacy Act system of records identified as 240-0175 "Patient Medical Record - VA" and in accordance with the VA's Notice of Privacy Practices. You do not have to provide the information to VA, but if you do not, VA will be unable to process your request and access your medical records. Failure to furnish the information will not have any effect on any other benefits to which you may be entitled. If you provide VA your Social Security Number, VA will use it to administer your VA benefits. VA may also use this information to identify veterans and persons claiming to be veterans, VA benefits and their records, and to other purposes authorized or required by law. The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 10107 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We estimate that the time expended by all individuals who must complete this form will average 2 minutes. This includes the time it will take to read instructions, gather the necessary data and fill out the form.</p>		
ENTER BELOW THE PATIENT'S NAME AND SOCIAL SECURITY NUMBER IF THE PATIENT DATA CARD IMPRINT IS NOT USED.		
TO DEPARTMENT OF VETERANS AFFAIRS (Print or type name and address of health care facility)		PATIENT NAME (Last, First, Middle Initial)
		SOCIAL SECURITY NUMBER
NAME AND ADDRESS OF ORGANIZATION, INDIVIDUAL OR TITLE OF INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED		
<p>VETERAN'S REQUEST: I request and authorize Department of Veterans Affairs to release the information specified below to the organization, or individual named on this request. I understand that the information to be released includes information regarding the following condition(s):</p> <p><input type="checkbox"/> DRUG ABUSE <input type="checkbox"/> ALCOHOLISM OR ALCOHOL ABUSE <input type="checkbox"/> TESTING FOR OR INFECTION WITH HUMAN IMMUNODEFICIENCY VIRUS (HIV) <input type="checkbox"/> SICKLE CELL ANEMIA</p> <p>INFORMATION REQUESTED (check applicable box(es) and state the extent or nature of the information to be disclosed, giving the dates or appropriate dates covered by check)</p> <p><input type="checkbox"/> COPY OF HOSPITAL SUMMARY <input type="checkbox"/> COPY OF OUTPATIENT TREATMENT NOTES <input type="checkbox"/> OTHER (Specify)</p>		
PURPOSE(S) OR NEED FOR WHICH THE INFORMATION IS TO BE USED BY INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED		
NOTE: ADDITIONAL ITEMS OF INFORMATION DESIRED MAY BE LISTED ON THE BACK OF THIS FORM		
<p>AUTHORIZATION: I certify that this request has been made freely, voluntarily and without coercion and that the information given above is accurate and complete to the best of my knowledge. I understand that I will receive a copy of this form after I sign it. I may revoke this authorization, in writing, at any time except to the extent that action has already been taken to comply with it. Written revocation is effective upon receipt by the Department of Veterans Affairs at the facility housing the records. Revisions of any medical records by those receiving the above authorized information may be accomplished without my further written authorization and may no longer be provided. Without my express permission, the</p>		

Authorization Requirements

If VHA employees receive a request for PHI that is accompanied by a valid written authorization, disclosure should be made in accordance with the authorization. When a valid written request, signed by the individual is made, every attempt to provide the disclosure should be made.

When a written authorization of the individual is required for use or disclosure of PHI, the authorization must contain each of the following elements to be valid:

- Be in writing,
- Identify the individual to whom the requested information pertains to,
- Identify the permitted recipient or user,
- Describe the information requested,
- Describe the purpose of the requested use or disclosure,
- Contain the signature of the individual whose records will be used or disclosed,
- Contain an expiration date, satisfaction of a need or an event,
- Include a statement that the patient may revoke the authorization in writing, except to the extent the facility has already acted in reliance on it, and a description of how the individual may revoke the authorization,
- Include a statement that treatment, payment, enrollment, or eligibility for benefits cannot be conditioned on the individual completing an authorization, and
- Include a statement that the information may no longer be protected from re-disclosure.

If any of the authorization requirements listed above have not been satisfied the authorization will be considered invalid.

There are some cases when a written authorization is not required such as when:

- PHI is used for treatment, payment, and/or health care operations (TPO), or
- Other legal authority exists.

NOTE: If there are questions from VHA employees on legal authority to make disclosures, the Privacy Officer should be contacted prior to making the disclosure.



Privacy of photographs, digital images and video and audio recordings

The facility must post obvious signage at each entrance of the facility clearly stating the local policy regarding photography, digital imagery, or video/audio recording guidelines.

VA Form 10-3203, Consent for Production and use of Verbal or Written Statements, Photographs, Digital Images, and /or Audio Recordings by VA must be obtained when a personally identifiable image, likeness, or recording of a member of the VHA workforce is produced or used by VHA for official purposes.

- VA Form 10-3203 is not needed when staff communications using teleconferencing, videoconferencing, or other similar platforms are taken for official purposes. The consent is not needed whether or not the equipment and software are capable of producing photographs, digital images, or recordings that are accessible at a later time.
- Participants of office functions, staff meetings or holiday parties should be told they may be subject to photography, imaging, or recording. A consent form is not required.
- No personally identifiable image, likeness, or recording of members of the VHA workforce is included in a photograph, digital image, or video or audio recording produced and used by VHA unless the person gives written consent.
- VHA employees may not secretly take pictures or record conversations without consent from the other party.

Some examples of activities for official purposes include but are not limited to certain education activities (e.g., development of educational brochures, face-to-face or virtual training videos and materials, biographies on web sites; communication; outreach, including promoting services using a patient or group photograph in facility newsletters, facility outreach programs, or social media; or preparation of publications.

VA Form 10-3203a, Informed Consent and Authorization for Third Parties to Produce or Record Statements, Photographs, Digital Images, or Video or Audio Recordings is required when a staff member or a Veteran is going to be interviewed by a third party.

NOTE: See VHA Directive 1078 "Privacy of Persons Regarding Photographs, Digital Images, and Video or Audio Recordings" for additional guidance.



Knowledge Check 4.1

A woman is visiting her husband at the Anytown VA Medical Center (VAMC). It is her husband's birthday. The wife has a cell phone with a camera. While in her husband's hospital room, more family members arrive. A nurse comes into the patient's room just as a picture is being snapped with the cell phone. The nurse is in the picture. The wife says she is going to post this picture on Facebook.

What does the nurse need to do as she does not want her picture on Facebook?

- a) Confiscate the camera.
- b) Report the wife to the VA Police.
- c) Politely ask the wife to delete the photograph and offer to take the picture for her.
- d) Do nothing. VA employees have no expectation of privacy.

[Click to check your answer.](#)

Knowledge Check 4.2

The clerk at the Primary Care desk receives a call from an attorney's office. The attorney claims the Veteran is sitting in their office and they have given the attorney permission to speak to the clerk. He wants information in the patient's record and demands the clerk fax it to him.

What should the clerk tell the caller?

- a) Nothing, they should simply hang up.
- b) Refer them to the release of information department.
- c) Ask for the fax number, they'll be happy to fax it over.

[Click to check your answer.](#)

Knowledge Check 4.3

You are the new Patient Advocate for your facility, and it is time again to update the wall that contains all of the people who are considered front office staff. You are requested to go to the media room to get your picture taken.

Does the facility need to get your consent prior to taking your picture?

- a) No...it is part of being in your job as a public figure.
- b) No...the Director of the facility said that consents were not necessary.
- c) Yes...the photograph is for an official purpose.

[Click to check your answer.](#)

Lesson 05: Special Privacy Topics

Module 5 - Special Privacy Topics

Lesson Objectives

In this module, you will learn about several special privacy topics that have not been discussed in previous modules.

Specifically you will learn about:

- Release of 38 U.S.C. § 7332 Information
- Compensated Work Therapy (CWT)
- Subpoenas
- Logbooks
- Whistleblower
- Compliance
- Virtual Lifetime Electronic Record (VLER)



Release of 38 U.S.C. §7332 Protected Health Information, part 1 of 2

38 U.S.C. Section §7332 makes strictly confidential all VA records that contain the identity, diagnosis, prognosis or treatment of VA patients or subjects for drug abuse, alcoholism or alcohol abuse, infection with human immunodeficiency virus (HIV/AIDS), or Sickle Cell Anemia. This statute applies to information whether or not it is recorded in a document or a Department record.

For example, a VHA health care provider's conversation discussing a patient's diagnosis, prognosis, and treatment for substance abuse would be protected by 38 U.S.C. §7332. This statute protects records and information of the testing of individuals for HIV infection and sickle cell anemia, including negative test results as well.

Before making a disclosure of any 38 U.S.C. §7332 protected health information to an outside entity without an individual's authorization, VHA employees should determine:

- The type of information being requested, and
- Whether legal authority exists under the statutes and regulations to permit the disclosure

Release of 38 U.S.C. §7332 Protected Health Information, part 2 of 2

The following is a list of examples when 38 U.S.C. § 7332 information **cannot** be disclosed without specific authorization such as a signed authorization from patient, standing written request letter, or written request.

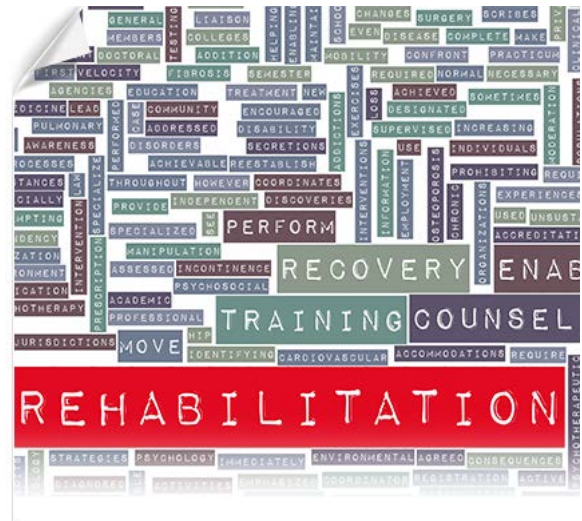
- To non-VA health care providers (e.g. physicians, hospitals, clinics, and nursing homes) for treatment purposes or payment services.
- To an insurance company for payment purposes.
- To the VA Office of Inspector General (OIG) for law enforcement purposes. VA OIG is required to provide a written request for Veteran information for law enforcement purposes.
- In court orders if there is 38 U.S.C. § 7332 information in the health record a very specific court order will be required. Please consult your Regional Counsel.
- To officials of any criminal or civil law enforcement governmental agency charged under applicable law with the protection of public health or safety in response to a standing written request letter.
- For the purpose of health care referrals, to resident care homes, assisted living facilities, and home health services.
- To Federal, State, and/or local public health authorities, for HIV reporting only, charged with the protection of the public health or safety pursuant to a standing written request letter or other applicable legal authority. Please consult your Privacy Officer.

The following is a list of situations where 38 U.S.C. § 7332 allows for the release of information **without** a signed authorization:

- For health care oversight activities a written request is not required and VHA may only disclose 38 U.S.C. § 7332 protected health information to the OIG for health care oversight activities.
- VHA may disclose any PHI to medical personnel to the extent necessary to meet a bona fide medical emergency.

Compensated Work Therapy (CWT)

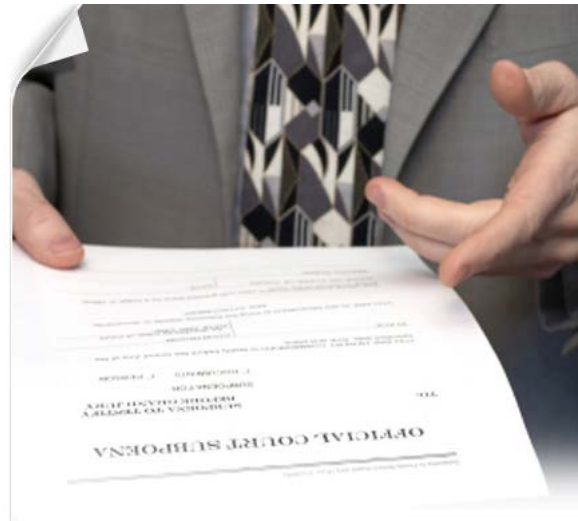
Compensated work therapy (CWT) program members are considered patients — **NOT EMPLOYEES** — therefore they cannot be given access to Veteran PHI. This includes computer systems and verbal or written access to PHI. Appropriate placement for individuals enrolled in the CWT program should be in positions with no access to PHI, which may include such areas as engineering, Acquisitions Material Management (AMM&S), groundskeeper, canteen/limited food service, and mail room as mail sorters.



Subpoenas

A subpoena is a document issued by or under the auspices of a court seeking a release of records or requesting an individual give testimony before a court of law. A subpoena must be signed by a judge for VHA to disclose Privacy Act-protected records.

The facility Privacy Officer and Regional Counsel must be notified in all cases where any personnel receive a court order for the production of records, a subpoena for records or for their appearance in court.



Logbooks

A physical logbook is any written (i.e., not electronic) record of activities or events comprised of data which may uniquely identify an individual or contain sensitive personal information that is maintained over a period of time for the purpose of monitoring an activity, tracking information or creating a historical record. The following are examples of physical logbooks:

- Respiratory therapy logs
- Laboratory logs
- Autopsy logs
- Wound care logs
- Logs of cases cleared
- Printouts of Excel spreadsheets
- Access data base printouts



Physical logbooks containing sensitive personal information can only be created, used and maintained for a compelling business need as approved by the VHA facility director or the Program Office Director. A compelling business need is one that requires the capture of sensitive personal information for a policy, regulatory, accreditation or statutory requirement. Compelling business needs may support reasonable and appropriate business operations, patient safety or quality improvement efforts, or other prudent and important health care operations needs such as the board certification of clinical staff including residents and trainees. Transition of physical logbooks to secure electronic logbooks and tracking systems is highly encouraged.

Physical logbooks are vulnerable to loss, theft or misuse of logbook content. Loss of control over a logbook can result in the compromise of sensitive personal information for multiple individuals, which could put individuals at risk for financial, reputational, or other harm and may result in a loss of trust in VHA's ability to secure sensitive personal information.

Knowledge Check 5.1

A non-VHA physician calls a VHA provider and wants to know the result of a patient's eye test. As the VHA provider is reviewing the health record, they notice the patient has a diagnosis of HIV.

Can they share this information with the non-VHA provider?

- a) Yes, the non-VHA provider may be able to offer the patient some HIV information.
- b) No, the diagnosis of HIV is protected by 38 U.S.C. § 7332 and unless the disclosure is necessary to meet a bonafide medical emergency, the VHA provider would need to secure a signed written authorization to disclose the 38 U.S.C. § 7332 protected information.

[Click to check your answer.](#)

Knowledge Check 5.2

An employee in the eye clinic noticed that there was a logbook on a table in the hallway and it contained multiple pages of protected health information.

What should they do?

- a) Confiscate the logbook and throw it into the shredder bin.
- b) Secure the logbook and turn it into the Service Chief and notify the Privacy Officer.
- c) Leave the logbook where it is; there must be a reason someone left it in the hallway.

[Click to check your answer.](#)

Whistleblower

In order to have legal authority for disclosure of protected health information and not violate any federal privacy law or regulation, a whistleblower, which is a member of the VA workforce or VHA business associate, who reasonably believes that VHA has engaged in conduct that is unlawful or otherwise violates professional or clinical standards or that the care, services, or conditions provided by VHA potentially endangers one or more patients, workers, or the public, may always disclose protected health information to:

- A health oversight agency, such as VA OIG, Congressional Committees (e.g., House Veterans Affairs Committee and Senate Veterans Affairs Committee) and the Office of Special Counsel, authorized by law to investigate or otherwise oversee the relevant conduct or conditions of VHA;
- A public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of VHA; or
- An appropriate health care accreditation organization, such as The Joint Commission, for the purpose of reporting the allegation of failure to meet professional standards or misconduct by VHA.

NOTE: An employee who discloses protected health information to an entity other than those listed above will be considered to have made an unauthorized disclosure in violation of the Privacy Act, HIPAA Privacy Rule and VHA policy. Such unauthorized disclosure can result in disciplinary action. For additional guidance contact your facility or administrative Privacy Officer.

Compliance

All employees shall comply with all Federal laws, regulations, VA and VHA policies. Employees shall conduct themselves in accordance with the Rules of Behavior concerning the disclosure or use of information. The VA Rules of Behavior are delineated in VA Handbook 6500, "Information Security Program," Appendix D.

Employees who have access to VHA records or VHA computer systems shall be instructed on an ongoing basis about the requirements of Federal privacy and information laws, regulations, VA and VHA policy.

Employees' access or use of PHI is limited to the minimum necessary standard of information needed to perform their official job duties. See VHA Handbook 1605.02, "Minimum Necessary Standards for Protected Health Information" for additional guidance.



Violations of the Privacy Act

A VA employee who knowingly and willfully violates the provisions of 5 U.S.C. §552a (1) is guilty of a misdemeanor and can be fined not more than \$5,000 when the employee:

- 1) Knows that disclosure of records which contains individually-identifiable information is prohibited and willfully discloses the information in any manner to any person or agency not entitled to receive it,
- 2) Willfully maintains records concerning identifiable individuals that have not met the Privacy Act notice requirements, or
- 3) Knowingly and willfully requests or obtains any record concerning an individual from VA under false pretenses. NOTE: This requirement only applies to persons who are not VA employees.

Violation of 38 U.S.C. §7332.

Any person who violates any provision of 38 U.S.C. §7332 can be fined not more than \$5,000 in the case of a first offense, and not more than \$20,000 in any subsequent offense (38 U.S.C. §7332(g)).

Violation of HIPAA (42 U.S.C. §1320d-6).

Any person who knowingly violates the provisions of HIPAA by using a unique health identifier, obtaining individually-identifiable information or disclosing individually-identifiable health information to another person can be fined not more than \$50,000, imprisoned not more than 1 year, or both, unless:

- The offense is committed using false pretenses, then the person can be fined not more than \$100,000, imprisoned not more than 5 years, or both; or

- The offense is committed with the intent to sell, transfer, or use individually-identifiable health information for commercial advantage, personal gain, or malicious harm, then the person can be fined not more than \$250,000, imprisoned not more than 10 years, or both.

Administrative or Disciplinary Actions

Administrative actions or disciplinary or other adverse actions (e.g., admonishment, reprimand, or termination) may be taken against employees who violate the Privacy Act, 38 U.S.C. §7332, and HIPAA Privacy Rule statutory provisions.

Knowledge Check 5.3

An employee knowingly violates the Privacy Act by entering an individual's record without a need to know.

What are the possible consequences that can be imposed on the employee?

- a) Life in prison and a fine of \$500,000.
- b) They must send a letter of apology and pay the individuals legal fees.
- c) They could be ordered to pay a fine of no more than \$5,000.

[Click to check your answer.](#)

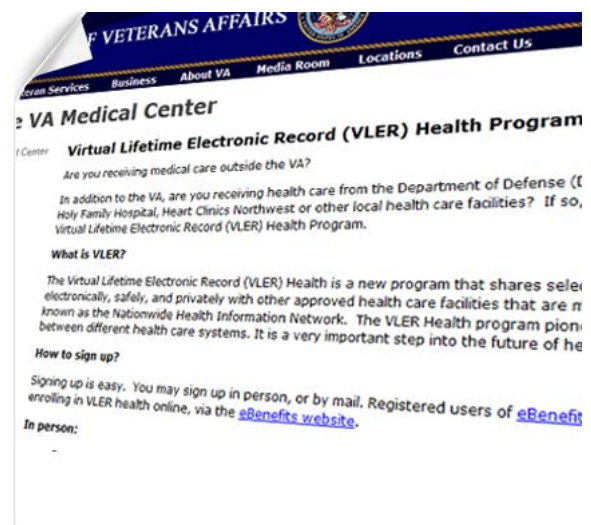
Virtual Lifetime Electronic Record (VLER)

In April 2009, President Obama directed the VA and DoD to lead the efforts in creating VLER (Virtual Lifetime Electronic Record), which would "ultimately contain administrative and medical information from the day an individual enters military service throughout their military career and after they leave the military."

VLER utilizes the eHealth Exchange to share prescribed patient information via this protected network environment with participating private health care providers, but this does not involve 'scanned' patient information.

VLER benefits Veterans who receive a portion of their care from non-VA health care providers. Below are some of the benefits:

- Eliminates need to hand-carry health records.
- Allows VA and private health care providers to share access of up-to-the-minute health information.
- Veterans may opt-in or opt-out at any time.
- Participating providers will have a 'view only' option to see the Veteran's information once the Veteran has completed an authorization (VA Form 10-0485).



Lesson 06: Freedom of Information Act (FOIA)

Module 6 - Freedom of Information Act (FOIA)

Lesson Objectives

In this module you will learn about the elements of the Freedom of Information Act (FOIA). Specifically, you will learn about:

- Elements of the FOIA
- Agency Records
- Employee Responsibilities
- Who Can Make A FOIA Request



Elements of FOIA

The basic purpose of the Freedom of Information Act (FOIA) is "to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold governors accountable to the governed." The FOIA establishes a presumption that records in the possession of agencies and departments of the executive branch of the U.S. Government are accessible to the people.

- FOIA is concerned with affording the **most disclosure** of information under law.
- The FOIA sets standards for determining which records must be disclosed and which records may be withheld.
- The law also provides administrative and judicial remedies for those denied access to records.



Agency Records

A valid FOIA request must be in writing and may be received by mail, e-mail, by hand or fax. Requests made under the FOIA must reasonably describe the records being requested. If VHA employees receive FOIA requests for any type of agency records they should be forwarded to the VHA healthcare facility's FOIA Officer.

Agency Records Are...

- Either created or obtained by an agency; and
- Under agency control at the time of the FOIA request.

Four factors for determining if an agency has "control" of the records:

- The intent of the record's creator to retain or relinquish control over the record;
- The ability of the agency to use and dispose of the record as it sees fit;
- The extent to which agency personnel have read or relied upon the record; and,
- The degree to which the record was integrated into the agency's records systems or files.



Employee Responsibilities

The FOIA Officer will make all determinations regarding release of the requested records and employees must fully cooperate with the FOIA Officer in the handling of these requests.

- Specific employee responsibilities include:
 - Searching for agency records at the direction of the FOIA Officer
 - Fully documenting the FOIA search efforts to include time spent searching, search terms utilized, and identification of systems or files searched
 - Providing responsive records to the FOIA Officer in a timely manner
 - Being accessible to the FOIA Officer for questions/clarifications
 - Compiling fee estimates at the direction of the FOIA Officer



Employees should not contact a FOIA requestor. All communications with a FOIA requestor must be made by the FOIA Officer.

You may find the appropriate FOIA Officer using the FOIA Officer Contact roster on the VA FOIA Homepage at <http://www.foia.va.gov/> .

Who Can Make a FOIA Request?

Virtually **ANYONE**, including:

- Private citizens
- Members of the media
- Members of Congress
- Corporations, associations, partnerships
- Foreign and domestic governments
- Unions
- Other federal employees, except when made in the official performance of their VA duties

Exceptions

The only exceptions to the above items are:

- Federal agencies may not use the FOIA as a means of obtaining information from other federal agencies
- Congressional oversight committees may not be denied information on the basis of a FOIA exemption
- Fugitives from justice, when the requested records relate to the requestor's fugitive status



Exemptions

There are nine exemptions that permit withholding of certain information from disclosure. It is the general policy of VA to disclose information from Department records to the maximum extent permitted by law. There are circumstances, however, when a record should not or cannot be disclosed in response to a FOIA request. When such an occasion arises, the FOIA permits records or information, or portions that may be segregated to be withheld under one or more of the exemptions.



Knowledge Check 6.1

You work in contracting and receive a request from a company that wants to make a bid on the next ambulance contract; the requestor wants to know who the current companies are and how much they charge for various services. You know that your friend handles that contract and could easily send the information.

What do you do?

- a) Call the company and tell them what the current company charges.
- b) Talk to your friend about it and see if they can mail a copy of the current contract to the requestor.
- c) Do nothing and forward the request to your facility FOIA Officer.

[Click to check your answer.](#)

Lesson 07 – End of Course

Course Summary



During this course, you have learned about:

- Basic Privacy Statutes and Employee Responsibilities
- Veterans Rights
- Introduction to Uses and Disclosures of Information
- Authorization Requirements and Privacy of photographs, digital images and video and audio recordings
- Special Privacy Topics
- Freedom of Information Act (FOIA)

Course Conclusion



This concludes the Privacy and HIPAA Focused Training for FY2017.

For more information on Privacy and Release of Information, contact your facility Privacy Officer or Administration Privacy Officer.

For a list of VHA Privacy Officers, go to <http://vaww.vhaco.va.gov/privacy/vhapo.htm>.

For a copy of the text version of the training, please refer to the Supplemental Materials folder within the course page in TMS.

Thank you for your participation.

References

Privacy Laws and Regulations

Privacy Laws and Regulations — <http://vaww.vhaco.va.gov/privacy/Laws.htm>

VA Authorization Forms

VA Authorization Forms — <http://vaww4.va.gov/vaforms>

Accounting of Records/Information Disclosure under Privacy Act —
<http://vaww4.va.gov/vaforms/va/pdf/VA5572.pdf>

Knowledge Check Answer Key

1.1	The correct answer is B . Employees' access or use of PHI is limited to the minimum necessary standard of information needed to perform their official job duties. See VHA Handbook 1605.02, 'Minimum Necessary Standards for Protected Health Information' for additional guidance. [return]
1.2	The correct answer is B . In addition to the administrative disciplinary actions or other adverse actions taken against employees who violate the statutory provisions. [return]
2.1	The correct answer is C . This is a request for an amendment to the health record and should be referred to the local Privacy Officer for processing. [return]
2.2	The correct answer is B . This is a request for an accounting of disclosures and as a covered entity we are required to maintain this information. [return]
2.3	The correct answer is C . Bryan needs to submit his written request for restriction to the Privacy Officer. [return]
2.4	The correct answer is D . Information cannot be given on Tamara because she opted out; this includes information that would alert the caller that Tamara had been admitted. If a person opts out, regardless of whether a visitor wants to bring mail or flowers, the visitor cannot be told that the person is in the facility. [return]
3.1	The correct answer is A . If the VHA researcher is conducting a review of individually-identifiable information to prepare a research protocol written authorization of the individual is not required. [return]
3.2	The best answer is "E". All of the above are appropriate precautions and safeguards to ensure auditory privacy. [return]
3.3	The correct answer is A . Contact the Privacy Officer immediately so they can work with the Director's office to resolve the issue. [return]
4.1	The correct answer is C . The nurse should ask the family members to delete the picture and then take another picture without her in it. The nurse should then remind the family members to ask staff prior to taking pictures if there is a policy prohibiting the taking of pictures. [return]
4.2	The correct answer is B . This is a request that requires written authorization and the attorney should be referred to the release of information department. [return]
4.3	The correct answer is C . The photograph is for an official purpose. [return]
5.1	The correct answer is B . 38 U.S.C. § 7332 protects the identity, diagnosis, prognosis or treatment of VA patients or subjects for drug abuse, alcoholism or alcohol abuse, infection with human immunodeficiency virus (HIV/AIDS), or Sickle Cell Anemia and disclosure requires a signed written authorization to a non-VHA provider unless the disclosure is necessary to meet a bonafide medical emergency. [return]
5.2	The correct answer is B . The logbook should be secured, turned into the Service Chief and the Privacy Officer notified; all employees have a responsibility to safeguard protected health information. [return]
5.3	The correct answer is C . Individuals who are convicted of knowingly and willfully violating the penalty provisions of the Privacy Act shall be guilty of a misdemeanor and fined not more than \$5,000. [return]
6.1	The correct answer is C . Once you receive a FOIA request, you should promptly forward the request to the appropriate FOIA Officer in the VA administration that maintains the responsive records. [return]