



DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY MEDICAL DEPARTMENT ACTIVITY
2480 LLEWELLYN AVENUE
FORT GEORGE G. MEADE, MARYLAND 20755-5800

REPLY TO
ATTENTION OF

30 July 2004

POLICY STATEMENT NO. 30

POLICY FOR HANDLING COMPLAINTS CONCERNING THE
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
AT KIMBROUGH AMBULATORY CARE CENTER

1. The provisions of the Health Information Portability and Accountability Act (HIPAA) mandates that the staff of this medical treatment facility, which includes all personnel from the commander down to Red Cross volunteers and the housekeeping staff, are to be held accountable for the confidentiality of protected health information. Protected health care information is any health care information that is individually identifiable by name or social security number, or by demographics, such as age, address, e-mail address, and relates to a patient's past, present or future physical or mental health or condition and related health care services.
2. Under the provisions of HIPAA, it is the responsibility of every member of the staff to report HIPAA violations, or suspected violations, to their supervisors. The purpose of this is two-fold: to alert the chain of command of a HIPAA violation or possible violation so that an evaluation can be made of the impact and appropriate corrective actions taken, and to prevent the offending employee from committing a similar violation in the future.
3. Other probable sources of information concerning violations of HIPAA privacy are:
 - a. Patient complaints submitted to—
 - (1) The Patient Representative.
 - (2) The HIPAA Privacy Officer.
 - (3) The Deputy Commander for Administration, Deputy Commander for Clinical Services, or Deputy Commander for Nursing.
 - (4) The MEDDAC Commander.
 - (5) The Senior Medical NCO.
 - (6) A provider.
 - b. Through an audit discovery.
 - c. A legal action.
4. Use of male gender pronouns. For the sake of simplicity, the male gender pronouns he, him and his will also represent the female gender pronouns she, her and hers.

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5. Violations and suspected violations of HIPAA privacy will be processed in accordance with the following procedure.

a. *Step 1 – The individual.* The individual who receives the complaint or discovers the violation will report it to his activity supervisor with the least possible delay. (Hereafter, the term “incident” will be substituted for the terms “complaint” and “discovery,” except in cases where it is necessary to differentiate between them.

b. *Step 2 – The supervisor.* Upon receiving notification of an alleged incident, the supervisor will do the following:

(1) Contact the alleged violator and require him to submit a written Statement of Occurrence as expeditiously as possible.

(2) Inform his department or division chief.

(3) Forward the original copy of the Statement of Occurrence and the original copy of the complaint (if a complaint) or a summary of the discovery (if a discovery) to the HIPAA Privacy Officer and a copy to the department or division chief, if applicable. The supervisor should also retain a copy of all documentation for his own record until the action has been completed.

c. *Step 3 – The HIPAA Privacy Officer.* Upon receiving incident information from a department or division chief (or other source), the HIPAA Privacy Officer will do the following:

(1) If the incident was a complaint received directly from the complainant (not from the Office of the Staff Judge Advocate) and the complainant’s telephone number is available, call the complainant to verify the complaint. If deemed appropriate, obtain additional information upon which a determination of the incident can be made.

(2) As chairperson of the HIPAA Committee, call an ad hoc meeting of the committee to meet within ten duty days (unless the committee is regularly scheduled to meet within that ten days) to review the incident and determine whether it is founded or unfounded. Take the following documentation to the committee meeting: the report of the incident (DA Form 4106, Quality Assurance/Risk Management Document), the Statement of Occurrence, any other comments or information relative to the incident, and any record of previously found (that is, established) HIPAA violations by the individual.

d. *Step 4 – The HIPAA Committee.*

(1) The HIPAA Committee will evaluate the incident and determine whether it is founded or unfounded, then prepare a memorandum to indicate its findings, which will be addressed to the division or department chief. A copy of the memorandum and all associated documentation will be furnished to the MEDDAC Commander and interested deputy commander(s).

(2) For violations determined to be *founded* (except in the case of a first occurrence, which will be handled in accordance with paragraph 5e(2), below), the committee will recommend either or both of the following actions to the MEDDAC Commander:

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(a) Discipline under the provisions of the Uniform Code of Military Justice for military personnel; in accordance with Office of Personnel Management policy for Department of the Army civilians; by contractors for contractor personnel; and by local Red Cross authorities for Red Cross volunteers.

(b) Termination.

(3) For violations determined to be *unfounded*, the committee will trend the complainants for patterns of unfounded complaints or abuse. If the committee identifies a complainant who appears to have established a trend of unfounded complaints or abuse, it will submit a recommendation to the MEDDAC Commander that the complainant, if a patient, have his patient status terminated.

e. *Step 5 – The HIPAA Privacy Officer.* Based on the decision of the HIPAA Committee, the HIPAA Privacy Officer will prepare a letter for the MEDDAC Commander's signature as follows:

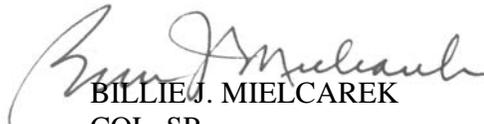
(1) *Unfounded.* Prepare a letter to the complainant and ensure it is properly delivered after it has been signed by the commander. Complete and attach a United States Postal Service PS Form 3811, Proof of Delivery, to the outside of the envelope to verify the complainant has received the letter. (PS Form 3811 may be obtained from the unit mailroom.)

(2) *Founded – first occurrence.*

(a) Prepare a letter of reprimand to the violator and deliver it to the violator after it has been signed by the commander.

(b) Prepare a letter to the complainant to notify him that his allegation was determined to be founded and what actions have been taken in response. Complete and attach a United States Postal Service PS Form 3811, Proof of Delivery, to the outside of the envelope to verify the complainant has received the letter. (PS Form 3811 may be obtained from the unit mailroom.)

(2) *Founded – second and succeeding occurrences.* Take action in accordance with instructions from the HIPAA Committee.


BILLIE J. MIELCAREK
COL, SP
Commanding

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