

CONFIDENTIAL COMMUNICATIONS

- 1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) Directive establishes policy concerning a patient's right to receive confidential communications pertaining to health care by an alternative means or at an alternative location other than the permanent address of record in compliance with Public Law 104-191 Health Insurance Portability and Accountability Act (HIPAA).
- 2. SUMMARY OF MAJOR CHANGES:** None.
- 3. RELATED ISSUES:** None.
- 4. RESPONSIBLE OFFICE:** The Chief Business Office (10NB) is responsible for the contents of this VHA Directive. Questions may be addressed to 202-382-2500.
- 5. RESCISSIONS:** VHA Directive 2009-013, dated March 5, 2009, is rescinded.
- 6. RECERTIFICATION:** This VHA Directive is due to be recertified on or before the last working day of November 2020.

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Under Secretary for Health

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1. PURPOSE

This Veterans Health Administration (VHA) Directive provides the policy concerning a patient's rights to receive confidential communications pertaining to health information by an alternative means or at an alternative location other than the permanent or temporary address of record for all patient information stored in the Veterans Health Information Systems and Technology Architecture (VistA) and/or Enrollment System.

AUTHORITY: 38 U.S.C. 501, 7301(b); 38 CFR 17.33; 45 CFR 164.522(b).

2. BACKGROUND

a. Title 45 Code of Federal Regulations (CFR) 164.522 (b), the Standards for Privacy of Individually Identifiable Health Information provision, sets requirements for covered entities, including the Veterans health care program under Title 38 United States Code (U.S.C.) Chapter 17, to accommodate a patient's request to receive communications with protected health information in a confidential manner at an alternative location or by an alternative means.

b. The Department of Veterans Affairs (VA) considers an alternative means to be in person and an alternative location to be a physical mailing address other than the patient's permanent or temporary address listed in VistA or the Enrollment System. VHA does not consider an email address to be an appropriate alternative location for correspondence. The VistA and Enrollment systems serve as VA's secure storage location for the confidential communication address when a patient requests delivery of protected health information at an address other than the patient's permanent or temporary address of record.

c. All reasonable requests to have written communications under a correspondence type of Eligibility and/or Enrollment, Appointment and/or Scheduling, Copayments and/or Veteran Billing, Health Records, Clinical Care, and All Other must be accommodated (see Appendix A). Only requests for confidential communications by alternate means or an alternate location set forth in this policy are considered reasonable.

d. All VistA and Enrollment System applications utilizing the address fields of the patient file have been modified to check for the confidential communications address data.

e. For manually-generated written correspondence (e.g., response to a Veteran's or patient's letter) VHA health care facilities must use the confidential communications address when the correspondence being mailed falls into a correspondence type notated to use the confidential communications address.

3. POLICY

It is VHA policy that all VHA health care facilities comply with reasonable requests from a patient to receive written communications or correspondence containing health

information in a confidential manner at one confidential communications address, or for in person delivery when the patient has made the request for the correspondence to be delivered in person, for example, by requesting copies of health records from the Release of Information Unit in person.

4. RESPONSIBILITIES OF THE MEDICAL FACILITY DIRECTOR

Each VA medical facility Director, or designee, is responsible for establishing local policy to ensure that:

a. VHA staff members do not solicit the confidential communications address from the patient.

NOTE: *However, if the patient makes the request to a staff member for the ability to receive written communications at an alternative mailing address, it needs to be accommodated as appropriate. Once activated, all future written communications identified as one or more of the specific correspondence types must be sent to the confidential communications address.*

b. When the patient makes a verbal or written request to a staff member to allow for the receipt of written communications at an alternative address other than the permanent or temporary address of record, the following applies:

(1) Patients must specify a "start date" for use of the confidential correspondence address, which cannot be a date in the past. Patients may specify an "end date" for use of the address, but it is not required.

(2) Individual staff must access screen 1.1 of the Load/Edit Patient Data option and answer the prompts. VistA allows the capture of the new confidential communications address fields including date started and stopped, street address, city, state, zip+4, and county. Entering data into Load/Edit does not transfer the information to the Eligibility/Enrollment system.

NOTE: *The Enrollment System (ES) can be used to enter, edit, or change information in the enrollment record. This eliminates the need to update a number of fields in VistA. Updating Veteran information directly into ES reduces the time for VistA to receive an authoritative update from the ES. Making updates directly in the ES may also increase accuracy, reduce pending applications, and reduce catastrophic edits.*

c. Eligibility/Enrollment staff members reference the patient's file in the VistA system to identify whether a confidential address is on record. If the patient's confidential address is indicated, the staff is to utilize the confidential address for all mailings under the appropriate correspondence type (see Appendix A).

d. A request to split communications between addresses or under a correspondence type is denied as unreasonable.

e. The confidential communications address and correspondence type is transmitted nightly.

f. A confidential communications address that results in undeliverable mail is considered invalid and the returned correspondence including the undeliverable address notification is re-mailed to the individual's permanent address or temporary address, if valid as notated in VistA.

g. A facility procedure, consistent with the policies contained in this Directive, regarding confidential communication addresses is published and distributed to all employees.

5. REFERENCES

- a. 45 CFR Part 160.
- b. 45 CFR Part 164.
- c. VHA Handbook 1605.1, Privacy and Release of Information.

DEFINITIONS OF THE FIVE CORRESPONDENCE TYPES FOR HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) CONFIDENTIAL COMMUNICATION

1. Patients may request confidential correspondence be mailed to a separate address. Health Insurance Portability and Accountability Act (HIPAA) Confidential Communications rules apply to both computer-generated and manually-created correspondence.
2. Patients can only have one confidential communication address. Patients can choose one or more of the following types of correspondence to be sent to this address.
 - a. Eligibility and/or enrollment;
 - b. Appointment and/or scheduling;
 - c. Copayments and/or Veteran billing;
 - d. Health records; and
 - e. All others.
3. The patient must specify a “start date” for use of the confidential correspondence address. It cannot be a date in the past. The patient may specify an “end date” for use of the address, but it is not required.
4. **Definitions of the Five Correspondence Types.**
 - a. **Eligibility and/or Enrollment Correspondence.** The Eligibility and/or Enrollment Correspondence type includes:
 - (1) Correspondence relating to Eligibility and/or Enrollment applications and determinations,
 - (2) Letters regarding appeal issues and/or decisions, and
 - (3) National Non-VA Care Coordination (NVCC) medical care Eligibility letters.
 - b. **Appointment and/or Scheduling Correspondence.** The Appointment and/or Scheduling Correspondence Type include:
 - (1) Appointment letters;
 - (2) Appointment cancellation letters;
 - (3) Surgery 30-day follow-up letters, and
 - c. **Copayments and/or Veteran Billing Correspondence.** The Copayments and/or Veteran Billing Correspondence Type includes:

(1) Patient bills on Universal Billing (UB) Form UB-04 and Centers for Medicare and Medicaid Services (CMS) Form 1500;

(2) Monthly patient statements;

(3) Prescription Copayment Exemption Income Test Reminders;

(4) Letters of Indebtedness (Debt Management Center (DMC), the Department of the Treasury, etc.);

(5) Statement of Case letters (relating to Veteran's and patient appeals);

(6) VA Form 10-7078, Authorization and Invoice for Medical and Hospital Services;

(7) Unauthorized claim letters; and

(8) Millennium Health Care Act claim letters.

d. Health Records Correspondence. The Health records Correspondence Type includes:

(1) Copies of health records;

(2) Letter from clinics regarding test results;

(3) Pharmacy medication list;

(4) Copies of pharmacy records; and

(5) Significant Health results notification letters.

e. All Other Correspondence. The All Other Correspondence Type includes:

(1) Form letters;

(2) Surveys;

(3) Invitations to programs;

(4) Non-VA Care Coordination medical care letters requesting information, authorization, verification, denial, and/or discrepancies in services; and

(5) Letters regarding suspected fraud and abuse.