



# Department of Veterans Affairs Veterans Health Administration NOTICE OF PRIVACY PRACTICES

Effective Date September 30, 2022

## THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED OR DISCLOSED AND HOW YOU CAN GET ACCESS TO YOUR INFORMATION. PLEASE REVIEW IT CAREFULLY

The Department of Veterans Affairs (VA), Veterans Health Administration (VHA) is required by law to maintain the privacy of your protected health information and to provide you with notice of its legal duties and privacy practices. VHA may use or disclose your health information without your permission for treatment, payment and health care operations, and when otherwise required or permitted by law. This Notice outlines the ways in which VHA may use and disclose your health information without your permission as required or permitted by law. For VHA to use or disclose your information for any other purposes, we are required to get your permission in the form of a signed, written authorization. VHA is required to maintain the privacy of your health information as outlined in this Notice and its privacy policies. Please read through this Notice carefully to understand your privacy rights and VHA's obligations.

### YOUR PRIVACY RIGHTS

**Right to Review and Obtain a Copy of Health Information.** You have the right to review and obtain a copy of your health information in our records. You must submit a written request to the facility Privacy Officer at the VHA health care facility that provided or paid for your care. The VHA Privacy Office at Central Office in Washington, D.C. does not maintain VHA health records, nor past military service health records. For a copy of your military service health records, please contact the National Personnel Records Center at (314) 801-0800. The Web site is <http://www.archives.gov/veterans/military-service-records/medical-records.html>.

**Right to Request Amendment of Health Information.** You have the right to request an amendment (correction) to your health information in our records if you believe it is incomplete, inaccurate, untimely, or unrelated to your care. You must submit your request in writing, specify the information that you want corrected, and provide a reason to support your request for amendment. All amendment requests should be submitted to the facility Privacy Officer at the VHA health care facility that maintains your information or health records.

**If your request for amendment is denied, you will be notified of this decision in writing and given information about your right to appeal the decision. In response, you may do any of the following:**

- File an appeal.
- File a "Statement of Disagreement" which will be included in your health record
- Ask that your initial request for amendment accompany all future disclosures of the disputed health information.

**Right to Request Receipt of Communications in a Confidential Manner.** You have the right to request that we provide your health information to you by alternative means or at an alternative location. We will accommodate reasonable requests, as determined by VA/VHA policy, from you to receive communications containing your health information:

- At a mailing address (e.g., confidential communications address) other than your permanent address.
- In person, under certain circumstances.

**Right to Request Restriction.** You may request that we not use or disclose all or part of your health information to carry out treatment, payment or health care operations, or that we not use or disclose all or part of your health information with individuals such as your relatives or friends involved in your care, including use or disclosure for a particular purpose or to a particular person.

Please be aware, that because VHA, and other health care organizations are "covered entities" under the law, VHA is not required to agree to such restriction, except in the case of a disclosure restricted under 45 CFR § 164.522(a)(1)(vi). This provision applies only if the disclosure of your health information is to a health plan for the purpose of payment or health care operations and your health information pertains solely to a health care service or visit which you paid out of pocket in full. However, VHA is not legally able to accept an out-of-pocket payment from a Veteran for the full cost of a health care service or visit. We are only able to accept payment from a Veteran for co-payments. Therefore, this provision does not apply to VHA and VHA is not required or able to agree to a restriction on the disclosure of your health information to a health plan for the purpose of receiving payment for health care services VA provided to you.

To request a restriction, you must submit a written request that identifies the information you want restricted, when you want it to be restricted, and the extent of the restrictions. All requests to restrict use or disclosure should be submitted to the facility Privacy Officer at the VHA health care facility that provided or paid for your care. If we agree to your request, we will honor the restriction until you revoke it unless the information covered by the restriction is needed to provide you with emergency treatment or the restriction is terminated by VHA upon notification to you.

**NOTE:** We are not able to honor requests to remove all or part of your health information from the electronic database of health information that is shared between VHA and DoD, or to restrict access to your health information by DoD providers with whom you have a treatment relationship.

**Right to Receive an Accounting of Disclosures.** You have the right to know and request a copy of what disclosures of your health information have been made to you and to other individuals outside of VHA. To exercise this right, you must submit a written request to the facility Privacy Officer at the VHA health care facility that provides your care.

**Right to a Printed Copy of the Privacy Notice.** You have the right to obtain an additional paper copy of this Notice from your VHA health care facility. You can obtain this Notice from the facility Privacy Officer at your local VHA health care facility. You may also obtain a copy of this Notice at the following website: <http://www.va.gov/vhapublications>.

**Notification of a Breach of your Health Information.** If a breach of any of your protected health information occurs, we will notify you and provide instruction for further actions you may take, if any.

**Complaints.** If you are concerned that your privacy rights have been violated, you may file a complaint with:

- The Privacy Officer at your local VHA health care facility. Visit this Web site for VHA facilities and telephone numbers <http://www.va.gov/directory/guide/home.asp?isflash=1>
- VA via the Internet through "Contact us" at <http://www.va.gov/contact-us/> or by dialing 1-800-983-0936 or by writing the VHA Privacy Office (105HIG) at 810 Vermont Avenue NW, Washington, DC 20420.
- The U.S. Department of Health and Human Services, Office for Civil Rights at <http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html>
- The Office of the Inspector General. <http://www.va.gov/oig/hotline/default.asp>
- Complaints do not have to be in writing, though it is recommended. An individual filing a complaint will not face retaliation by any VA/VHA organization or VA/VHA employee.

### When We May Use or Disclose Your Health Information without Your Authorization

**Treatment.** We may use and disclose your health information without your authorization for treatment or to provide health care services. This includes using and disclosing your information for:

- Emergency and routine health care or services, including but not limited to labs and x-rays; clinic visits; inpatient admissions
- Contacting you to provide appointment reminders or information about treatment alternatives
- Seeking placement in community living centers or skilled nursing homes
- Providing or obtaining home-based services or hospice services
- Filling and submitting prescriptions for medications, supplies, and equipment
- Coordination of care, including care from non-VHA providers,
- Communicating with non-VHA providers regarding your care through health information exchanges
- Coordination of care with DoD, including electronic information exchange

**NOTE:** If you are an active-duty service member, Reservist or National Guard member, your health information is available to DoD providers with whom you have a treatment relationship. Your protected health information is on an electronic database that is shared between VHA and DoD. VHA does not have the ability to restrict DoD's access to your information in this database, even if you ask us to do so.

### Examples:

- 1) A Veteran sees a VHA doctor who prescribes medication based on the Veteran's health information. The VHA pharmacy uses this information to fill the prescription.
- 2) A Veteran is taken to a community hospital emergency room. Upon request from the emergency room, VHA discloses health information to the non-VHA hospital staff that needs the information to treat this Veteran.
- 3) A National Guard member seeks mental health care from VHA. VHA discloses this information to DoD by entering the information into a database that may be accessed by DoD providers at some future date.
- 4) A Veteran is seen by his community health care provider, who wants to review the Veteran's last blood work results from his VHA Primary Care visit for comparison. The community health care provider uses a local health information exchange to request and receive the results from VHA to better care for the Veteran.

**Payment.** We may use and disclose your health information without your authorization for payment purposes or to receive reimbursement for care provided. This includes using and disclosing your information for:

- Determining eligibility for health care services
- Paying for non-VHA care and services, including but not limited to, CHAMPVA, Choice and fee basis
- Coordinating benefits with other insurance payers
- Finding or verifying coverage under a health insurance plan or policy
- Pre-certifying insurance benefits
- Billing and collecting for health care services provided by VHA
- Reporting to consumer reporting agencies regarding delinquent debt owed to VHA.

### Examples:

- 1) A Veteran is seeking care at a VHA health care facility. VA uses the Veteran's health information to determine eligibility for health care services.
- 2) The VHA health care facility discloses a Veteran's health information to a private health insurance company to seek and receive payment for the care and services provided to the Veteran.
- 3) A Veteran owes VA \$5000 in copayments for Non-Service Connected care over two years. The Veteran has not responded to reasonable administrative efforts to collect the debt. VA releases information concerning the debt, including the Veteran's name and address, to a consumer reporting agency for the purpose of making the information available for third-party decisions regarding such things as the Veteran's credit, insurance, housing, banking services, utilities.

**Health Care Operations.** We may use or disclose your health information without your authorization to support the activities related to health care. This includes using and disclosing your information for:

- Improving quality of care or services
- Conducting Veteran and beneficiary satisfaction surveys
- Reviewing competence or qualifications of health care professionals
- Providing information about treatment alternatives or other health-related benefits and services
- Conducting health care training programs
- Managing, budgeting and planning activities and reports
- Improving health care processes, reducing health care costs and assessing organizational performance
- Developing, maintaining and supporting computer systems
- Addressing patient complaints
- Legal services
- Conducting accreditation activities
- Certifying, licensing, or credentialing of health care professionals
- Conducting audits and compliance programs, including fraud, waste and abuse investigations
- Performing process reviews and root cause analyses

### Examples:

- 1) Medical Service, within a VHA health care facility, uses the health information of diabetic Veterans as part of a quality of care review process to determine if the care was provided in accordance with the established clinical practices.
- 2) A VHA health care facility discloses a Veteran's health information to the Department of Justice (DOJ) attorneys assigned to VA for defense of VHA in litigation.
- 3) The VHA health care facility Utilization Review Committee reviews care data, patient demographics, and diagnosis to determine that the appropriate length of stay is provided per Utilization Review Standards.

**Eligibility and Enrollment for Federal Benefits.** We may use or disclose your health information without your authorization to other programs within VA or other Federal agencies, such as the Veterans Benefits Administration, Internal Revenue Service, or Social Security Administration, to determine your eligibility for Federal benefits.

**Abuse Reporting.** We may use or disclose your health information without your authorization to report suspected child abuse, including child pornography; elder abuse or neglect; or domestic violence to appropriate Federal, State, local, or tribal authorities. This reporting is for the health and safety of the suspected victim.

**Serious and Imminent Threat to Health and Safety.** We may use or disclose your health information without your authorization when necessary to prevent or lessen a serious and imminent threat to the health and safety of the public, yourself, or another person. Any disclosure would only be to someone able to help prevent or lessen the harm, such as a law enforcement agency or the person threatened. You will be notified in writing if any such disclosure has been made by a VHA health care facility.

**Public Health Activities.** We may disclose your health information without your authorization to public health and regulatory authorities, including the Food and Drug Administration (FDA) and Centers for Disease Control (CDC), for public health activities. This includes disclosing your information for:

- Controlling and preventing disease, injury, or disability
- Reporting communicable diseases such as hepatitis, tuberculosis, sexually transmitted diseases & HIV
- Reporting vaccination events
- Reporting adverse events and product defects or problems
- Reporting vital events such as births and deaths
- Tracking FDA-regulated products
- Enabling product recalls, repairs or replacements

**Judicial or Administrative Proceedings.** We may disclose your health information without your authorization for judicial or administrative proceedings, such as when we receive an order of a court, such as a subpoena signed by a judge, or administrative tribunal, requiring the disclosure.

**Law Enforcement.** We may disclose your health information without your authorization to law enforcement agencies for law enforcement purposes when applicable legal requirements are met. This includes disclosing your information for:

- Identifying or apprehending an individual who has admitted to participating in a violent crime
- Reporting a death where there is a suspicion that death has occurred as a result of a crime
- Reporting Fugitive Felons
- Routine reporting to law enforcement agencies, such as gunshot wounds
- Providing certain information to identify or locate a suspect, fugitive, material witness, or missing person
- Investigating a specific criminal act.

**Health Care Oversight.** We may disclose your health information without your authorization to a governmental health care oversight agency (e.g., Inspector General; House Veterans Affairs Committee) for activities authorized by law, such as audits, investigations, and inspections. Health care oversight agencies include government agencies that oversee the health care system, government benefit programs, other government regulatory programs, and agencies that enforce civil rights laws.

**Cadaveric Organ, Eye, or Tissue Donation.** When you are an organ donor and death is imminent, we may use or disclose your relevant health information without your authorization to an Organ Procurement Organization (OPO), or other entity designated by the OPO, for determining suitability of your organs or tissues for organ donation. If you have not specified your donation preferences and can no longer do so, your family may make the determination regarding organ donation on your behalf.

**Coroner or Funeral Services.** Upon your death, we may disclose your health information to a funeral director for burial purposes, as authorized by law. We may also disclose your health information to a coroner or medical examiner for identification purposes, determining cause of death, or performing other duties authorized by law.

**Services.** We may provide your health information without your authorization to individuals, companies and others who need to see your information to perform a function or service for or on behalf of VHA. An appropriately executed contractual document, if applicable, and business associate agreement must be in place securing your information.

**National Security Matters.** We may use and disclose your health information without your authorization to authorized Federal officials for conducting national security and intelligence activities. These activities may include protective services for the President and others.

**Workers' Compensation.** We may use or disclose your health information without your authorization to comply with workers' compensation laws and other similar programs.

**Correctional Facilities.** We may disclose your health information without your authorization to a correctional facility if you are an inmate and disclosure is necessary to provide you with health care; to protect the health and safety of you or others; or for the safety of the correctional facility.

**Required by Law.** We may use or disclose your health information without your authorization for other purposes to the extent required or mandated by Federal law (e.g., to comply with the Americans with Disabilities Act; to comply with the Freedom of Information Act (FOIA); to comply with a Health Insurance Portability and Accountability Act (HIPAA) privacy or security rule complaint investigation or review by the Department of Health and Human Services).

**Activities Related to Research.** Before we may use health information for research, all research projects must go through a special VHA approval process. This process requires an Institutional Review Board (IRB) to evaluate the project and its use of health information based on, among other things, the level of risk to you and to your privacy. For many research projects, including any in which you are physically examined or provided care as part of the research, you will be asked to sign a consent form to participate in the project and a separate authorization form for use and possibly disclosure of your information. However, there are times when we may use your health information without an authorization, such as, when:

- A researcher is preparing a plan for a research project. For example, a researcher needs to examine patient medical records to identify patients with specific medical needs. The researcher must agree to use this information only to prepare a plan for a research study; the researcher may not use it to contact you or actually conduct the study. The researcher also must agree not to remove that information from the VHA health care facility. These activities are considered preparatory to research.
- The IRB approves a waiver of authorization to use or disclose health information for the research because privacy and confidentiality risks are minimal and other regulatory criteria are satisfied.
- A Limited Data Set containing only indirectly identifiable health information (such as dates, unique characteristics, unique numbers or zip codes) is used or disclosed, with a data use agreement (DUA) in place.

**Military Activities.** We may use or disclose your health information without your authorization if you are a member of the Armed Forces, for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, when applicable legal requirements are met. Members of the Armed Forces include Active Duty Service members and in some cases Reservist and National Guard members.

### Example:

Your Base Commander requests your health information to determine your fitness for duty or deployment.

**Academic Affiliates.** We may use or disclose your health information without your authorization to support our education and training program for students and residents to enhance the quality of care provided to you.

**State Prescription Drug Monitoring Program (SPDMP).** We may use or disclose your health information without your authorization to a SPDMP in an effort to promote the sharing of prescription information to ensure safe medical care.

**General Information Disclosures.** We may disclose general information about you without your authorization to your family and friends. These disclosures will be made only as necessary and on a need-to-know basis consistent with good medical and ethical practices, unless otherwise directed by you or your personal representative. General information is limited to:

- Verification of identity
- Your condition described in general terms (e.g., critical, stable, good, prognosis poor)
- Your location in a VHA health care facility (e.g., building, floor, or room number)

**Verbal Disclosures to Others While You Are Present.** When you are present, or otherwise available, we may disclose your health information to your next-of-kin, family or to other individuals that you identify. Your doctor may talk to your spouse about your condition while at your bedside or in the exam room. Before we make such a disclosure, we will ask you if you object or if it is acceptable for the person to remain in the room. We will not make the disclosure if you object.

**Verbal Disclosures to Others When You Are Not Present.** When you are not present, or are unavailable, VHA health care providers may discuss your health care or payment for your health care with your next-of-kin, family, or others with a significant relationship to you without your authorization. This will only be done if it is determined that it is in your best interests. We will limit the disclosure to information that is directly relevant to the other person's involvement with your health care or payment for your health care.

Examples of this type of disclosure may include questions or discussions concerning your in-patient medical care, home-based care, medical supplies such as a wheelchair, and filled prescriptions.

**IMPORTANT NOTE:** A copy of your medical records can be provided to family, next-of-kin, or other individuals involved in your care **only** if we have your signed, written authorization **or** if the individual is your authorized personal representative.

**Other Uses and Disclosures with Your Authorization.** We may use or disclose your health information for any purpose you specify in a signed, written authorization you provide us. Your signed, written authorization is always required to disclose your psychotherapy notes, if they exist. If we were to use or disclose your health information for marketing purposes we would require your signed written authorization. In all other cases, we will not use or make a disclosure of your health information without your signed, written authorization, unless the use or disclosure falls under one of the exceptions described in this Notice. When we receive your signed, written authorization we will review the authorization to determine if it is valid, and then disclose your health information as requested by you in the authorization.

**Revocation of Authorization.** If you provide us a signed, written authorization to use or disclose your health information, you may revoke that authorization, in writing, at any time. If you revoke your authorization, we will no longer use or disclose your health information unless the use or disclosure falls under one of the exceptions described in this Notice or as otherwise permitted by other laws. Please understand that we are unable to take back any uses or disclosures we have already made based on your signed, written authorization.

### When We Offer You the Opportunity to Decline the Use or Disclosure of Your Health Information

**Patient Directories.** Unless you opt-out of the VHA medical center patient directory when being admitted to a VHA health care facility, we may list your general condition, religious affiliation and the location where you are receiving care. This information may be disclosed to people who ask for you by name. Your religious affiliation will only be disclosed to members of the clergy who ask for you by name.

**NOTE:** If you do object to being listed in the Patient Directory, no information will be given out about you unless there is other legal authority. This means your family and friends will not be able to find what room you are in while you are in the hospital. It also means you will not be able to receive flowers or mail, including Federal benefits checks, while you are an inpatient in the hospital or nursing home. All flowers and mail will be returned to the sender.

### When We Will Not Use or Disclose Your Health Information

**Sale of Health Information.** We will not sell your health information. Receipt by VA of a fee expressly permitted by law, such as Privacy Act copying fees or FOIA copying fees is not a "sale of health information."

**Genetic Information.** We will not use or disclose genetic information to determine your eligibility for or enrollment in VA health care benefits.

**Changes to This Notice.** We reserve the right to change this Notice. The revised privacy practices will pertain to all existing health information, as well as health information we receive in the future. Should there be any changes to this Notice we will make a copy of the revised Notice available to you within 60 days of any change. The Notice will contain the effective date on the first page.

**Contact Information.** You may contact the Privacy Officer at your local VHA health care facility if you have questions regarding the privacy of your health information or if you would like further explanation of this Notice. The VHA Privacy Office may be reached by mail at VHA Privacy Office, Office of Health Informatics (105HIG), 810 Vermont Avenue NW, Washington, DC 20420 or by telephone at 1-877-461-5038 (toll free).