



Defense Health Agency

ADMINISTRATIVE INSTRUCTION

NUMBER 6000.02

August 5, 2022

DAD-MA

SUBJECT: Photography, Videotaping, Filming, Recording, and Imaging of Patients, Visitors, and Staff

References: See Enclosure 1.

1. PURPOSE. This Defense Health Agency-Administrative Instruction (DHA-AI), based on the authority of References (a) through (c), and in accordance with the guidance of References (d) through (o), establishes the Defense Health Agency's (DHA) policies and procedures concerning the production of still images, videos, or audio recordings (collectively referred to as "recordings") of patients, visitors, and staff, as well as the possession and use of such recordings.

2. APPLICABILITY. This DHA-AI applies to the DHA and DHA Components (activities under the authority, direction, and control of DHA), and all personnel, to include: assigned or attached Active Duty and Reserve Component members, federal civilians, members of the Commissioned Corps of the Public Health Service, contractors (when required by the terms of the applicable contract), and other personnel assigned temporary or permanent duties at DHA. It also applies to non-DHA personnel while in DHA facilities or on DHA property, to include patients, legally authorized representatives (LARs), and visitors.

3. POLICY IMPLEMENTATION. It is DHA's instruction, pursuant to References (a) through (o), that patients and staff within DHA facilities and on DHA property follow this guidance for taking, possessing, and using recordings. Under the guidance of Reference (m), this instruction supersedes Military Department policies on this matter related to protecting human subjects for DHA personnel. This policy applies to recordings made with personally owned devices as well as government devices. Generally, personnel working in strategic communications or public affairs, combat camera, visual information, and biomedical photography laboratories performing their official duties are not covered by this DHA-AI. See Reference (d). This policy also does not cover recording done via telemedicine.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3.

6. PROPONENT AND WAIVERS. The proponent of this publication is the Deputy Assistant Director (DAD) Medical Affairs (MA). When activities are unable to comply with this publication, the activity may request a waiver that must include a justification, to include an analysis of the risk associated with not granting the waiver. The activity director or senior leader will submit the waiver request through their supervisory chain to DAD-MA to determine if the waiver may be granted by the Director, DHA or their designee.

7. RELEASABILITY. **Cleared for public release**. This DHA-AI is available on the Internet from the Health.mil site at: <https://health.mil/Reference-Center/Policies> and is also available to authorized users from the DHA SharePoint site at: <https://info.health.mil/cos/admin/pubs/SitePages/Home.aspx>.

8. EFFECTIVE DATE. This DHA-AI:

a. Is effective upon signature.

b. Will expire 10 years from the date of signature if it has not been reissued or cancelled before this date in accordance with Reference (c).

9. FORMS

a. Optional Form (OF) 522, Medical Record - Request for Administration of Anesthesia and Performance of Operations and Other Procedures, can be found at <https://www.gsa.gov/cdnstatic/OF%20522.pdf?forceDownload=1>.

b. DD Form 2870, Authorization of Disclosure of Medical or Dental Information, can be found at: <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd2870.pdf>.

/S/
RONALD J. PLACE
LTG, MC, USA
Director

Enclosures

1. References

2. Responsibilities
 3. Procedures
 4. Sample Request for Exemption to Policy Request Letter
- Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5136.01, “Assistant Secretary of Defense for Health Affairs (ASD(HA)),” September 30, 2013, as amended
- (b) DoD Directive 5136.13, “Defense Health Agency,” September 30, 2013, as amended
- (c) DHA Procedural Instruction 5025.01, “Publication System,” April 1, 2022
- (d) DHA Procedural Instruction 5400.01, “Public Affairs (PA) and Strategic Communications,” July 15, 2019
- (e) DoD Instruction 5400.11, “DoD Privacy and Civil Liberties Program,” January 29, 2019, as amended
- (f) DoD Instruction 6025.18, “Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Compliance in DoD Health Care Programs,” March 13, 2019
- (g) DoD Manual 6025.18, “Implementation of the HIPAA Privacy Rule in DoD Health Care Programs,” March 13, 2019
- (h) Rodriguez, Michelle & Morrow, Jason & Seifi, Ali, “Ethical Implications of Patients and Families Secretly Recording Conversations With Physicians,” *Journal of the American Medical Association*, (April 28, 2015)¹
- (i) Defense Health Agency (DHA) Privacy and Civil Liberties Office Information Paper, “Camera and Video Use in a Covered Entity,” updated February 4, 2015²
- (j) Department of Veterans Affairs Directive 1078(1), “Privacy of Persons Regarding Photographs, Digital Images, and Video or Audio Recordings,” November 4, 2014, as amended
- (k) DoD Instruction 3216.02, “Protection of Human Subjects and Adherence To Ethical Standards in DoD-Conducted And Supported Research,” April 15, 2020
- (l) Code of Federal Regulations, Title 34
- (m) Code of Federal Regulations, Title 32, Part 219 “Protection of Human Subjects,” January 19, 2018
- (n) Belmont Report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, April 18, 1979
- (o) United States Code, Title 10, Section 1073c

¹ This document can be found at: <https://dx.doi.org/10.1001/jama.2015.2424>

² This reference can be found at: <https://www.health.mil/Military-Health-Topics/Privacy-and-Civil-Liberties/HIPAA-Compliance-within-the-MHS/HIPAA-Information-Papers>

ENCLOSURE 2
RESPONSIBILITIES

1. DIRECTOR, DHA. The Director, DHA, will ensure oversight for tracking compliance with the standard processes, procedures, and workflows outlined in this DHA-AI.

2. DAD-MA. The DAD-MA must:

- a. Monitor compliance with the guidance outlined in this DHA-AI.
- b. Recommend updates in support of continuous process improvement.

3. DIRECTORS, DHA MARKETS, DHA SMALL MARKETS AND SMALL MARKETS AND STAND-ALONE MILITARY MEDICAL TREATMENT FACILITY ORGANIZATION (SSO), AND DHA REGIONS (DHAR). The Directors, Markets, SSOs, and DHARs must:

- a. Ensure compliance with the communication processes, procedures, and business rules of this DHA-AI.
- b. Implement or ensure corrective actions, to include provision of additional resources and training.
- c. Track compliance.
- d. Report compliance with this DHA-AI annually to DAD-MA.
- e. Recommend updates to this DHA-AI in support of continuous process improvement.

4. DIRECTORS, MILITARY MEDICAL TREATMENT FACILITIES (MTFs), DENTAL TREATMENT FACILITIES (DTFs), AND VETERINARY TREATMENT FACILITIES (VTFs). The Directors, MTF/DTF/VTFs must:

a. Establish programs to ensure compliance with the communication processes, procedures, and business rules outlined in this DHA-AI regarding the use of personally owned recording devices.

b. Ensure video, audio, and other devices for monitoring patient safety are accessible only by staff responsible for patient safety and used only for patient safety monitoring in real time. Using such devices to record is inconsistent with the purpose of monitoring.

c. Ensure notices, such as signs or posters, are displayed in areas being overtly recorded and/or monitored by MTF/DTF/VTFs. Notices may include statements, such as or similar to: “This facility is monitored by video surveillance cameras,” or “Parking areas and public locations are monitored and recorded for your safety and security.”.

d. Review and approve, if appropriate, requests for covert monitoring with the servicing DHA OGC legal counsel, human resources officer, union representatives, and law enforcement, as applicable.

e. Ensure staff members and volunteers do not record people within the facility property for their personal use, or the use of other persons or entities, without the consent of those identifiable in the recording. Staff members and volunteers may make recordings of their own family members or friends while visiting in a non-official or official capacity or when asked to take a recording by a patient, family, or friends and with the consent of those being recorded.

f. Ensure recordings used by the MTF/DTF/VTF or DoD for official purposes are made with the subject’s oral or written consent prior to the recording, unless the subject cannot be identified.

g. Ensure any recording of teleconference or videoconference meetings is announced at the beginning of the meeting. Organizers for events and meetings where recordings are taken must allow participants to request they not be recorded. Organizers must take all reasonable measures to exclude these participants from the recording. Call centers, appointment lines, and other systems subject to monitoring or recording must provide notice a call may be recorded.

h. Ensure recordings for research purposes are obtained and used in compliance with Reference (m), Reference (k), and Reference (n).

i. Report compliance to the Directors, Markets, SSO, and DHARs annually.

j. Recommend updates to this DHA-AI with additional processes and procedures, in support of continuous process improvement.

k. Ensure the MTF/DTF/VTF has processes, procedures, and/or materials to inform patients, family members, legally authorized representatives (LAR), and visitors of this policy and any MTF- or Department-specific policies.

5. DEPARTMENT CHIEFS OR THEIR DESIGNEES, MTF/DTF/VTF. The MTF/DTF/VTF Department Chiefs or their designees will:

a. Implement policy consistent with this AI. The Department Chief or designee may adopt this AI in its entirety or may develop a more restrictive policy protecting privacy interests pertaining to the use of recording devices; however, such policy cannot be more permissive than this AI.

- b. Ensure their staff personnel are aware of and adhere to the policy.
- c. Ensure patients/family members/LARs/visitors are aware of the policy and understand the expectations to adhere to the policy.
- d. Contact Patient Relations or MTF/DTF/VTF leadership to address violations of the policy by either hospital staff or patients/family members/LARs/visitors. Patient Relations must inform MTF/DTF/VTF leadership of all reported violations for appropriate action.
- e. Grant approval for MTF/DTF/VTF staff in exceptional and rare circumstances to use personally owned devices when unable to obtain government-owned devices, and ensure the personally owned devices meet IT security criteria. Recordings on personally owned devices must be transferred to secure government-owned devices at the first opportunity, which may require the assistance of IT. Once transferred, recordings on personally owned devices must be deleted and made unrecoverable. Use of live transmissions, such as webcams, are subject to the same requirements as recordings.

6. DEPARTMENT CHIEF, PATIENT RELATIONS, MTF/DTF The Department Chief, Patient Relations of MTF/DTF/VTF, or equivalent, will:

- a. Be responsible for facilitating the MTF/DTF/VTF's response and handling of instances when this policy is violated. Resolving the matter at the lowest possible level is highly encouraged.
- b. Liaise with appropriate MTF/DTF/VTF staff members to address violations.

7. DHA PERSONNEL. DHA Personnel will:

- a. Adhere to the applicable policy.
- b. Use government-owned or procured recording devices.
- c. If it is impractical or unfeasible to use a government owned or procured recording device, obtain appropriate authorization before using a personally owned recording device. Document on DD Form 2870, Authorization of Disclosure of Medical or Dental Information, how the recording can be used (such as only for scientific purposes, for scientific and personal uses, etc.). See Enclosure 3 for more details.
- d. Inform leadership in instances where a patient/family member/LAR/visitor violates the policy for appropriate action to be taken.

8. INVESTIGATORS CONDUCTING RESEARCH INVOLVING HUMAN SUBJECTS.

Researchers using human subjects will:

- a. Obtain appropriate Institutional Review Board (IRB) approval, in accordance with Reference (m).
- b. Ensure the research project receives appropriate review and approval by the institution engaged in research involving human subjects.
- c. Comply with the requirements of Reference (m), Reference (k) (as applicable), and the principles in Reference (n) for research subjects for the use of recordings or other likeness.
- d. Give priority to the protection of research subjects.

ENCLOSURE 3

PROCEDURES

1. OVERVIEW: Personal electronic devices are now pervasive, posing an ongoing risk of accidental or intentional breach of privacy and security. It is DHA policy to respect the privacy of all persons (patients, families, visitors, staff, and volunteers), protect identifiable health information, and to obtain consent for recording. Images taken from a distance or at a wide angle are permitted without consent only when it is impossible to determine an individual's identity in the image—a determination that must take into account the potential use of facial recognition or other biometric identification software—and only when no patient identifiers are captured in the image. This policy does not apply to or prohibit the use of any security cameras or authorized law-enforcement surveillance, which may capture images without the acknowledgement of a patient or others; however, it does apply to recording for purposes of patient care, teaching, research, documenting treatment, healthcare operations, and other health care.

2. RECORDINGS MADE ON DHA PREMISES:

a. Unless otherwise authorized, anyone making a recording on DHA premises must have appropriate permission or consent before recording, and must immediately stop recording if permission or consent is granted but later clearly withdrawn.

b. Adherence to infection control policies and procedures must be maintained for all recording equipment.

c. Recording must never disrupt patient care, create a safety concern, or violate privacy interests.

3. RECORDINGS MADE BY DHA PERSONNEL

a. Per References (f) and (g), recordings where a patient is identifiable fall within the definition of Protected Health Information (PHI).

b. DHA personnel are bound to a high ethical standard and an inherent duty to protect our patients from any real or potential harm. DHA personnel should feel comfortable in their dealings and interactions with patients and visitors so they may focus their energy and attention on treatment.

c. Recording of patients is appropriate in the following settings.

(1) For the diagnosis and treatment of medical conditions. In the context of treating patients, recordings should be taken only if the provider has determined that they will add value in treating or diagnosing the patient.

(2) For the purpose of professional education, board certification, and/or licensure. Recordings for education and training are to remain within the use and control of the facility. Their use in outside conferences or inclusion in handouts requires the patient's consent to such use, and approval through the publication clearance approval process. The use of recordings transmitted over non-secure means (e.g., via the internet) for virtual meetings and conferences must be de-identified, or the patient must consent to the use, and it must be authorized through the publication clearance process.

(3) For the advancement of science and research. The informed consent for research must include information describing recordings to be taken or obtained for research purposes; how recordings will be used for the research; and whether recordings will be disclosed outside the DHA. An IRB does not have the authority to waive the requirement to obtain consent for recording a research subject at a DHA institution. The consent for research does not give legal authority to disclose recordings outside the DHA. Within the U.S. and its territories, a Health Insurance Portability and Accountability Act (HIPAA) authorization is needed to make such disclosures in accordance with Reference (f) and (g). For facilities outside the United States and its territories, follow existing Status of Forces Agreements, as applicable.

d. While recording may be appropriate in these various settings, healthcare professionals must effectively communicate with patients/family members/LARs/visitors, as well as ensure all appropriate documentation, permissions, and images are obtained per current policies and are maintained as part of official records. Clinical photography can be accomplished through a variety of multimedia technologies to collect, analyze, and store patient PHI. Access and use of these media will be carefully controlled and executed in compliance with all regulations as well as other organizational policies and procedures. Recordings may not be transmitted via unsecure e-mail and must be stored on government equipment authorized for Personally Identifiable Information (PII) and PHI and compliant with information security requirements. DHA personnel must inform the patient and/or LAR they may request recording cease at any time and rescind their authorization to use a recording up until a reasonable time before the recording is to be used.

e. DHA personnel will ensure written authorization and/or consent that complies with applicable regulations (e.g., HIPAA, research approval, publication clearance) is properly maintained.

(1) DHA personnel need to fully inform individuals (and in some instances, their LAR) of all purposes for which DHA personnel intend to use the recording in order to obtain appropriate authorization and/or consent.

(2) DD Form 2870, Authorization for Disclosure of Medical or Dental Information, is HIPAA compliant and must be used. In block 8, add: "Videos, photographs, voice recordings, and other recordings are released to the Defense Health Agency and/or academic institutions for

the purpose of inclusion in my medical records, educational purposes, and/or possible use in medical exhibits, publications of medical knowledge, and lectures for the training of medical and paramedical personnel. At any time, I may request that recordings stop and/or recordings already taken not be released.”

(3) Further, this policy is not intended to prohibit recordings for suspected abuse and neglect or other legal purposes, and consent is not generally required for this documentation or submission to investigating agencies; however, use of recordings for purposes beyond the use of investigating agencies require explicit consent from the patient. Recordings may be released to law enforcement and public health authorities in compliance with applicable law and policy, such as in cases of child abuse and neglect, intimate partner violence, elder abuse, sexual assault, battery, and similar situations.

f. The default equipment to use is government-owned equipment. Use of these resources will help maintain the recordings safely and effectively, and will ensure there is proper integration of the photograph into official records.

(1) By exception, MTF/DTF/VTF Directors or their designees, no lower than MTF/DTF/VTF Department Chiefs, may authorize in writing the use of a personally owned device for mission-essential purposes. Such authorization is rare, and granted only when deemed mission essential. Enclosure 4 is provided as a sample request and approval for exceptions and may be modified to suit a particular MTF/DTF/VTF’s requirements.

(2) MTF/DTF/VTF Directors authorizing use of personally-owned devices must establish local policies and procedures to ensure consistency with this instruction and will include provisions for the following:

(a) Requesting and approval of non-government recording devices. Approvals may be granted for up to one year, at a level no lower than Department Chiefs or equivalent, and must be documented in the staff member’s professional record. Use of mobile devices such as cell phones and personal devices that automatically and electronically transmit information via unsecure means are strictly prohibited and will not be authorized unless encrypted and compliant with information security statutes, regulations, policies, and procedures. Devices and settings should be cleared through the Information Security Office.

(b) Procedures, training, and equipment to transfer recordings made with personal devices onto government computers. Once transferred, recordings must be included as part of the patient’s medical record, if clinically relevant, protected as PII and PHI, and immediately destroyed/deleted from the device and any internal or external memory media. Transfer of data to government systems must comply with existing security statutes, regulations, policies, and procedures.

g. Optional Form (OF) 522, Medical Record - Request for Administration of Anesthesia and Performance of Operations and Other Procedures, which is used for medical and surgical procedures, and a patient or LAR signs before a procedure, contains the following wording (see Figure below). This consent is not sufficient if DHA personnel want to use the recording for

purposes other than contained in the OF 522. If DHA personnel anticipate use of a recording obtained for a purpose outside what is listed on the procedural consent, DHA personnel may use the recording by annotating the multiple uses on the DHA Form 2870 prior to the procedure. Otherwise, this failure to properly document authorization reflects a breach in patient privacy.

I understand that photographs and movies may be taken of this operation, and that they may be viewed by various personnel undergoing training or indoctrination at this or other facilities. I consent to the taking of such pictures and observation of the operation by authorized personnel, subject to the following conditions: a) the name of the patient and their family is not used to identify said pictures, and b) said pictures or recordings be used only for purposes for medical/dental study or research

Figure 1: OF 522 Photograph and Movie Excerpt

8. INFORMATION TO BE RELEASED Videos, photographs, voice recordings, and other recordings are released to the Defense Health Agency and/or academic institutions for the purpose of inclusion in my medical records, educational purposes, and/or possible use in medical exhibits, publications of medical knowledge, and lectures for the training of medical and paramedical personnel. At any time, I may request that recordings stop and/or recordings already taken not be released.	
9. AUTHORIZATION START DATE (YYYYMMDD)	10. AUTHORIZATION EXPIRATION <input type="checkbox"/> DATE (YYYYMMDD)
<input type="checkbox"/> ACTION COMPLETED	
SECTION III - RELEASE AUTHORIZATION	
I understand that: a. I have the right to revoke this authorization at any time. My revocation must be in writing and provided to the facility where my medical records are kept or to the TMA Privacy Officer if this is an authorization for information possessed by the TRICARE Health Plan rather than an MTF or DTF. I am aware that if I later revoke this authorization, the person(s) I herein name will have used and/or disclosed my protected information on the basis of this authorization. b. If I authorize my protected health information to be disclosed to someone who is not required to comply with federal privacy protection regulations, then such information may be re-disclosed and would no longer be protected. c. I have a right to inspect and receive a copy of my own protected health information to be used or disclosed, in accordance with the requirements of the federal privacy protection regulations found in the Privacy Act and 45 CFR 164.524.ss d. The Military Health System (which includes the TRICARE Health Plan) may not condition treatment in MTFs/DTFs, payment by the TRICARE Health Plan, enrollment in the TRICARE Health Plan or eligibility for TRICARE Health Plan benefits on failure to obtain this authorization. I request and authorize the named provider/treatment facility/TRICARE Health Plan to release the information described above to the named individual/organization indicated.	

Figure 2: DD Form 2870 Excerpt

h. For those individuals who cannot consent (e.g., minors, decedents), the staff member needs to obtain consent from the patient’s LAR.

i. The staff member may only release recordings to those within the organization with a need for that information in the performance of their duties, and only for the purpose documented on the consent/authorization.

j. To the extent possible, images/recordings must de-identify the patient before use.

k. DHA personnel must protect the recordings and use appropriate safeguards (encrypting the data; if, for some mission reason, taking the recording out of the facility, hand carrying it and always keeping it under the DHA personnel’s direct control; etc.). Should a loss occur, DHA personnel must follow provisions outlined for breach reporting. Electronic or physical recordings must be stored in secure areas of the Electronic Health Record or facility that complies with storage of PII and PHI. These recordings must be clearly identified, securely stored and transmitted, and readily accessible for retrieval. Recordings must be retained, according to government records retention policies.

l. Destruction after use is required. Once DHA personnel download and place a recording in an official record, the DHA personnel need to destroy the recording to prevent inadvertent unauthorized disclosure.

m. Recordings taken by DHA personnel will not be released to outside requesters without a specific release from the patient or the patient's LAR, unless the purpose is for treatment, payment, or healthcare operations, or otherwise the use or disclosure is permissible by applicable law and policy. If a patient or LAR wants a copy of the recording used for medical record documentation, this individual needs to request it through the facility's Medical Records Office.

n. Recordings of human casualties, as well as the possession, distribution, transfer, or posting, whether electronically or physically, of visual images depicting patients or human casualties, except as required for official duties, is strictly prohibited.

o. Upon notification that a litigation hold, records freeze, or other preservation order is in effect, or if litigation or legal action is anticipated, relevant recordings and associated data must be preserved in accordance with servicing legal office guidance.

p. Hospital staff who violate this policy are subject to appropriate disciplinary action.

5. RECORDINGS BY PATIENTS, FAMILY MEMBERS, LARs, OR VISITORS

a. DHA personnel should be aware that at any given time, a patient, family member, LAR, or visitor may be recording or capturing the encounter. As such, DHA personnel should always engage the patient, family member, LAR, or visitor in a manner in which they would not be concerned or upset about learning that they were being recorded.

(1) DHA personnel are encouraged to engage in a conversation when patients/family members/LARs/visitors record the patient encounter without prior permission and they subsequently learn of the recording. This can be done in a variety of ways. Per Reference (h), "The physician can express assent, note constructive uses of such recordings, and educate the patient about the privacy rights of other patients so as to avoid any violations. Taking such an approach would demonstrate the physician's openness and desire to strengthen the relationship with the patient. The physician could also choose not to address any suspicions and provide care as he or she normally would without letting the possibility of recording affect either attitude toward the patient or medical decision making."

(2) While DHA personnel really do not have the mechanism to regulate the use of cameras beyond its workforce, camera use must be consistent with the patient's best interests and should not be disruptive to overall care, create a safety concern, or violate privacy interests. See Reference (i). DHA personnel retain the right to request that a patient, family member, LARs, or visitor discontinue or delete the recording, if deemed necessary.

b. DHA personnel may encounter patients, family members, LARs, or visitors who wish to record. In such situations, DHA personnel should respect that many important life milestones occur within MTF/DTF/VTFs and Military Healthcare System healthcare settings.

c. Patients, family members, LARs, and visitors should be afforded the opportunity to record their care and these events, with these considerations in mind:

(1) A patient's authorized visitors are presumed to have that patient's consent to record them. Otherwise, patients/family members/LARs/visitors should obtain consent or permission before recording anyone, including staff members and other patients/family members/LARs/visitors.

(2) Any recording should be consistent with the best interests of the patient, official operations, and the delivery of care. Therefore, any DHA staff member may request patients/family members/LARs/visitors stop recording at any time. Should the patients/family members/LARs/visitors refuse to comply with the request to stop recording, DHA personnel should use the lowest mechanism possible to stop the recording. This includes asking family members/LARs/visitors to leave the area or the premises, notifying the staff member's superiors, or, if necessary, requesting assistance from security personnel.

(3) Recording in common areas requires permission of the MTF/DTF/VTF Director as well as the consent of all individuals (including DHA personnel) being recorded, except when subjects cannot be identified in the recording. Public Affairs may obtain authorization from the MTF/DTF/VTF or Market Director for official recordings.

e. The MTF/DTF/VTF Director, or delegated authority no lower than Department Chief, may establish local policy to address settings, such as Labor and Delivery, delivery room, or others in which staff may come and go, that includes consideration for safe delivery of care and patient and staff privacy concerns. At all times, the attending provider will have the authority to decide if the patient is clinically stable enough to allow recordings.

f. The attending provider for labor and delivery births may permit imaging of a normal vaginal birth; however, imaging in the operating room during a Cesarean section is not permitted until the baby is placed in the warmer and the attending provider approves of such imaging. After delivery, should a parent want recording done by a professional photographer, the parent must arrange for that service and provide authorization. DHA personnel will treat this individual as an approved visitor. Any member of the OB health care team has the right to direct the location of the activity, and to limit or suspend the activity. Any member of the OB health care team may request and, if necessary, direct that recording be stopped if the process is interfering with or threatening the safe care of the patient or her newborn, or disruptive of hospital operations.

6. RECORDINGS STORED ON PERSONALLY OWNED DEVICES AS OF THE DATE OF THIS ISSUANCE. DHA personnel who possess recordings on personally owned device without authorization must take immediate corrective action. This includes transfer of the images to

official medical records through secure means, deletion of the images on the personally owned device, and approval for future use of any personally--owned device. In a case where recordings have not been deleted and DoD receives notice of litigation hold, records freeze, or other preservation order, there is a duty to preserve the information and any associated data.

7. SECURITY AND FACILITY OPERATIONS. Recordings for the purpose of security and facility monitoring in public areas do not require written consent. Notice, such as posters or signs, must be posted to inform users of facilities that security recordings are being conducted in public areas. Recordings for the purpose of documenting mass casualties and disaster management may be taken; however, use of recordings with identifiable persons for any purpose other than quality improvement and risk management will require explicit consent prior to recording, or as soon as possible after the event, and prior to use of the recordings, or the identities of persons must be permanently and irreversibly masked. Patients should be provided the opportunity to decline, and the person recording the patient must obtain explicit consent unless the patient is incapacitated or in emergency settings, and only if the recording is in the best interests of the patient. Recording identification cards (including Common Access Cards) and badges is not authorized for publication.

8. TRICARE ONLINE AND OTHER PATIENT PORTALS. Recordings can be shared on secure patient portals for the viewing of the patient, as long as the portal is accessible by only the patient or authorized representative.

ENCLOSURE 4

SAMPLE REQUEST FOR EXEMPTION TO POLICY REQUEST LETTER

Date

From: Name of individual requesting the exemption
To: Title and Name of Activity Approving the Request

Subj: REQUEST FOR EXEMPTION TO USE A PERSONALLY OWNED DEVICE

1. Per DoD Manual 6025.18, "Implementation of the HIPAA Privacy Rule in DoD Health Care Programs," March 13, 2019, I respectfully request permission to utilize a personally owned recording/imaging device in the performance of my official duties as (Title). The audiovisual documentation of patients is required for (provide explanation detailing reasons for request and why government equipment cannot be used - e.g., requirement for residency program, board certification).

2. I understand that should this request be approved, I am only authorized use of exempted equipment for documenting clinical cases necessary for the performance of my official duties, and this exemption expires on (date of end of program/project, or one year from request date, if applicable). I understand that use of mobile devices such as cell phones and personal devices that electronically transmit information via unsecure means such as Internet, wireless, satellite, and Internet Service Providers are strictly prohibited and will not be authorized.

3. I further understand that patient authorization must be obtained prior to making any recording per DoD Manual 6025.18, "Implementation of the HIPAA Privacy Rule in DoD Health Care Programs," March 13, 2019 and that patient dignity and privacy is paramount. I have read and understand all pertinent policies pertaining to the use of such equipment and the consequences for their misuse.

4. I know and understand local policies that detail the procedures for transfer, storage, and transmission of recordings. Images taken on a personally owned device must be transferred as soon as practical onto an authorized government computer using authorized and secure means and, upon transfer, all files must be deleted immediately and permanently from my personal device prior to being removed from the facility.

5. I acknowledge, understand, and will comply with security policy and rules of behavior, as applicable to my use of the DHA's network and services. I understand that business use may result in increases to my personal monthly service plan costs. I further understand that the DHA will not reimburse me for any business related data/voice plan usage of my personal device

6. I understand violation may subject me to appropriate disciplinary action.

Name/Title of requestor

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

DAD	Deputy Assistant Director
DHA	Defense Health Agency
DHA-AI	Defense Health Agency-Administrative Instruction
DHAR	Defense Health Agency Regions
DTF	Dental Treatment Facility
HIPAA	Health Insurance Portability and Accountability Act
HCO	Healthcare Operations
IRB	Institutional Review Board
MA	Medical Affairs
MTF	Military Medical Treatment Facility
OF	Optional Form
PHI	Protected Health Information
PII	Personally Identifiable Information
SSO	DHA Small Markets and Stand-Alone Military Medical Treatment Facility Organization
VTF	Veterinary Treatment Facility

PART II. DEFINITIONS

DHA Components. Direct Reporting Markets, SSO, DHAR, Small Markets, and MTFs/DTFs/VTFs)

DHA Personnel. Any person employed, contracted, or sponsored by DHA to carry out official duties within any healthcare setting under the technical and professional control of DHA. For the purposes of this instruction, it includes military, civil servants, contractors, volunteers, and members of outside agencies authorized to work in DHA healthcare settings.

LAR. Legally-authorized representative. Any person recognized in applicable jurisdictional law to make medical-legal decisions for a person.

Mission Essential. Limited functions to ensure continuity of patient care, support, facilities, and other important activities during natural and manmade disasters, emergencies, outages, and other

events; may include essential documentation of the event and response; does NOT include documentation for personal use.

Recording Device. Any mechanism or apparatus capable of capturing still images, video images, or sound in any medium.