



TMA Privacy and Civil Liberties Office Information Paper



HEALTH INFORMATION TECHNOLOGY (HIT) INITIATIVES

HIPAA Privacy ♦ March 2011

I. Supporting Policies for this Information Paper

- A. The Privacy Act of 1974 (as amended) safeguards individually identifiable information owned and maintained by Federal agencies or components. It provides individuals with the right to access these records, allowing them to make amendments, and also correct information that is inaccurate, irrelevant, untimely, or incomplete.
- B. The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule sets forth rules for safeguarding protected health information (PHI).
 1. The Department of Defense Health Information Privacy Regulation implements the above section of the HIPAA Privacy Rule as it relates to the Military Health System (MHS).
 2. The Health Information Technology for Economic and Clinical Health (HITECH) Act, which was enacted by the American Recovery and Reinvestment Act of 2009, amends the HIPAA Privacy Rule.
 - a. HITECH provides incentives that encourage providers to adopt an electronic health record (EHR) by 2014.
 - b. HITECH also defined certification standards for electronic exchange of health information and strengthened federal privacy and security protections for health information.
- C. In April 2009, President Obama directed the Departments of Defense (DoD) and Veterans Affairs (VA) to work together to create a unified way for healthcare providers to access patient records, regardless of where the record resided.
 1. This directive led to the development of a number of HIT-related activities within DoD, including:
 - a. EHR Way Ahead,
 - b. Virtual Lifetime Electronic Record (VLER) initiative; and
 - c. Increased participation in the Nationwide Health Information Network.

2. DoD also became a signatory to the Data Use and Reciprocal Support Agreement (DURSA).

II. EHR Way Ahead

- A. DoD identified requirements to safeguard patient privacy for a new MHS EHR system that will be deployed worldwide to all military treatment facilities (MTFs) in support of outpatient, inpatient, and ancillary services provided by MTFs.
- B. Requirements include logging in and accounting for disclosures of PHI.

III. Virtual Lifetime Electronic Record (VLER)

- A. VLER is a joint DoD/VA initiative designed to ensure that Service Members, Veterans, and eligible family members have access to their complete medical information regardless of whether they seek care from an MTF, a VA facility, or a civilian health care provider.
- B. Through VLER, information will be shared with strict and rigorous standards of privacy and security, ensuring that Service Members, Veterans, and eligible family members have confidence that their medical records will be fully protected under the HIPAA Privacy and Security Rules, HITECH Act, the Privacy Act of 1974, and DoD/VA implementing regulations and policies.
- C. The benefits of VLER will directly impact patient access to care and their own medical information by:
 1. Allowing health care providers fast and secure access to patient information to assist them in delivering seamless care;
 2. Providing a more complete picture of a patient's medical history, thus reducing the potential for erroneous or duplicative medical procedures;
 3. Offering a common access point for patient health information, reducing the time and effort needed to determine the appropriate care for a patient; and
 4. Reducing the burden to the patient by eliminating paperwork and the need to access paper records between DoD and VA.

IV. Nationwide Health Information Network

- A. The Nationwide Health Information Network is a confederation of trusted entities bound by a common mission and governance structure whose purpose is to facilitate the secure exchange of health information.
- B. Participants in the Nationwide Health Information Network are networked across the Internet using common implementation standards and specifications regarding secure transfer of information. Entities participating in the Nationwide Health Information Network are all bound by a common trust agreement, known as the DURSA.
- C. Governance of the information exchange and enforcement of the DURSA is coordinated by the Office of the National Coordinator for Health Information Technology (ONC) within the Department of Health and Human Services (HHS).

V. Data Use and Reciprocal Support Agreement (DURSA)

- A. The DURSA is a comprehensive, multi-party trust agreement that will be signed by all entities who wish to exchange data in the Nationwide Health Information Network (Participants).
- B. The DURSA provides the legal framework governing participation in nationwide information exchange by requiring the signatories to abide by a common set of terms and conditions that establish the Participants' obligations and the trust fabric to support the privacy, confidentiality and security of the health data that is exchanged.