



Interoffice Memorandum

APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: Feb. 16, 2016

AGENDA ITEM

February 4, 2016

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

THRU: Christopher Hunter, M.D., Ph.D., Director 
Health Services Department

FROM: Joshua Stephany, M.D., Acting Manager
Medical Examiner's Office
Contact: (407) 836-9424

SUBJECT: Standing Written Request for Release of Protected Health Information from
the Department of Veterans Affairs to the Medical Examiner's Office
Consent Agenda – February 16, 2016

We have been informed in writing by the Department of Veterans Affairs; Orlando VA Medical Center that in order for the Medical Examiner's Office to obtain medical records permitted under our statutory obligations, our office is being required to send a standing written request to the Orlando VA Medical Center which will be valid for a period of three years.

The Department of Veterans Affairs provided a template to use in drafting the request; however, at the recommendation of the County Attorney's Office, as well as the County's HIPAA privacy officer, a draft letter was completed by the Health Law Firm which incorporated the language used in the VA's template.

We are requesting approval to move forward in sending the Health Law Firm's drafted letter to the Orlando VA Medical Center, as well as, having the letter executed by the Chief Medical Examiner as the custodian of such records.

ACTION REQUESTED: Approval of proposed draft letter to the Orlando VA Medical Center regarding standing written request for release of protected health information and authorization for the Chief Medical Examiner to sign the letter. **(Medical Examiner)**

Attachments

Cc: George A. Ralls, M.D., Deputy County Administrator
Wanzo Galloway, Jr., Assistant County Attorney
Dr. Randy Lewis, LMFT, CHP HIPAA Privacy Officer



DEPARTMENT OF VETERANS AFFAIRS
VA Medical Center
5201 Raymond Street
Orlando, FL 32803

DEC 22 2015

In Reply Refer To: 675/001/P

Joshua Stephany, M.D., Chief Medical Examiner
District #9 Medical Examiner's Office
2350 East Michigan Street
Orlando, FL 32806

Dear Dr. Stephany:

The purpose of this letter is to facilitate the process of releasing reportable information by the Orlando VA Medical Center to the District #9 Medical Examiner's Office as required by law and that the use or disclosure complies with and is limited to the relevant requirements of such law enforcement activity. In order for Orlando VA Medical Center to initiate a report of patient information, VA must have authority under all federal privacy laws and regulations to use and disclose patient information. In order to cooperate with and initiate a State reporting requirement, VA requires a "standing written request" letter for this information.

The Health Insurance Portability and Accountability Act (HIPAA) of 1996, implemented under Title 45 CFR Parts 160 and 164, do not require such a "standing written request". It is, however, mandated by Title 38 U.S.C. § 5701 and the federal Privacy Act of 1974, 5 U.S.C. § 552a(b)(3). The request will be valid for a period of three years starting on the date we receive it. With your request on file, Orlando VA Medical Center will then have authority to contact you and transmit information under applicable State reporting laws.

This standing written request letter will not authorize disclosure of information needed in the pursuit of a focused (individual specific and/or incident specific) activity such as a civil or criminal law enforcement investigation. It is solely designed to authorize routine disclosure of repetitively occurring medical conditions or events that are mandated by State law for a provider to report, i.e. gunshot wounds, child/elderly abuse, communicable diseases, etc. Our authority to disclose drug abuse, alcoholism, sickle cell anemia or HIV-related information is prohibited with minimal exceptions under 38 U.S.C. § 7332.

Your standing written request letter for reportable information must state that the names, addresses and other information will be used for a purpose authorized by law, in accordance with 38 U.S.C. §5701 and § 7332; that it will not be used for any other purpose than that stated in the request; and that the requesting agency is aware of the penalty provision of 38 U.S.C. § 5701(f)(2). This is a misdemeanor penalty carrying a fine of not more than \$5,000 for a first offense and not more than \$20,000 for a subsequent offense.

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Stephany, Joshua

To assist you in completing such a "standing written request letter," we have prepared and enclosed a proposed letter that complies with our requirements. Be sure the letter is dated and that it is signed by the head of your agency or an individual specifically delegated with authority to sign. This individual must be charged with enforcing or implementing the statute, regulation, rule, or order. If authority has been delegated, a copy of such delegation must be enclosed. We ask that you return the standing written request letter to the VA facility address and reference reply mailing code. Upon receipt, Orlando VA Medical Center will have the legal authority it needs under federal laws and regulations to contact your agency and provide information required by law.

If you need additional information about VA's release of information procedures, please contact Joseph Boateng, Privacy Officer, at (407) 631-2825.

Sincerely,



Timothy W. Liezert
Medical Center Director

Enclosure: Sample Standing Written Request Letter

PROPOSED DRAFT LETTER

Date -

Timothy W. Liezert, Director
Orlando VA Medical Center
13800 Veterans Way
Orlando, Florida 32827

SUBJECT: Standing Written Request for Release of Protected Health Information

Dear Mr. Liezert:

As you may know, the Orange County Medical Examiner's Office is charged with carrying out the county's obligations under Chapter 406, Florida Statutes, including the receipt and investigation of information identified herein.

In order to satisfy this duty, the Medical Examiner's Office must be able to access and use protected health information. Much of that information comes from entities like the Orlando VA Medical Center and its employed and contracted health care providers.

The purpose of this letter is to provide the Orlando VA Medical Center with a standing request to release protected health information to the Medical Examiner's Office when required by Florida law. This request is made pursuant to 38 U.S.C. § 5701 and 5 U.S.C. § 552a(b)(3).

The information subject to this request includes that which is required to be reported to the Medical Examiner's office under Sections 406.11 & 406.12, Florida Statutes, or any other Florida law or regulation governing the mandatory report of events or circumstances to local medical examiners' offices.

The Orlando VA Medical Center is permitted to release this information under The Health Insurance Portability and Accountability Act (HIPAA) as implemented under 45 C.F.R. Parts 160 & 164. Specifically, the above-requested information may be released to the County without prior patient authorization under 45 C.F.R. 164.512(b), (c), (f), (g), and/or (j).

Even though the Medical Examiner's office may not be a HIPAA "covered entity" and, therefore, not subject to the Act, this office agrees to limit the use of the names, addresses, and other information to legally authorized purposes only. This office further agrees to limit its use of the released information to the purposes stated in this request and is aware of the penalties for misuse stated in 38 U.S.C. § 5701(f)(2), which provides a penalty for unauthorized use of names or addresses of veterans and their dependents not to exceed \$5,000 for the first offense and \$20,000 for any subsequent offense.

This request shall be valid for a period of three (3) years.

Sincerely,

Joshua Stephany, M.D.
Acting Chief Medical Examiner