

§ 701.122

32 CFR Ch. VI (7–1–10 Edition)

without having a “routine use” request.

(c) *Frequent “routine use” requests.* DON activities (e.g., security and military police offices) that routinely receive requests for information for which a “routine use” has been established should offer a “routine use” request form. This will eliminate the unnecessary burden of processing requests under PA/FOIA when the limited information being sought is available under a “routine use.”

§ 701.122 Medical records.

(a) *Health Information Portability and Accountability Act (HIPAA).* (1) DOD Directive 6025.18 establishes policies and assigns responsibilities for implementation of the standards for privacy of individually identifiable health information established by HIPAA.

(2) DOD Directive 6025.18–R prescribes the uses and disclosures of protected health information.

(3) Detailed guidance on HIPAA compliance is available from the Bureau of Medicine and Surgery’s Web site at <http://navymedicine.med.navy.mil> and from DOD at <http://www.tricare.osd.mil/hipaa/>.

(4) In addition to responsibilities to comply with this subpart and subpart G of this part, DOD Directive 6025.18 and DOD 6025.18–R must also be complied with to the extent applicable. Although nothing in this subpart and subpart G violates DOD Directive 6025.18, compliance with this subpart and subpart G in connection with protected health information does not necessarily satisfy all requirements of DOD 6025.18–R.

(b) *Disclosure.* DON activities shall disclose medical records to the individual to whom they pertain, even if a minor, unless a judgment is made that access to such records could have an adverse effect on the mental or physical health of the individual. Normally, this determination shall be made in consultation with a medical practitioner.

(1) Deny the individual access to his/her medical and psychological records if that access could have an adverse effect on the mental or physical health of the individual. This determination normally should be made in consulta-

tion with a medical practitioner. If it is medically indicated that access could have an adverse mental or physical effect on the individual, provide the record to a medical practitioner named by the individual, along with an explanation of why access without medical supervision could be harmful to the individual. In any case, do not require the named medical practitioner to request the record for the individual.

(2) If, however, the individual refuses or fails to designate a medical practitioner, access will be refused. The refusal is not considered a denial for reporting purposes under the PA.

(c) *Access to a minor’s medical records.* DON activities may grant access to a minor’s medical records to his/her custodial parents or legal guardians, observing the following procedures:

(1) In the United States, the laws of the State where the records are located may afford special protection to certain medical records (e.g., drug and alcohol abuse treatment and psychiatric records.) Even if the records are maintained by a military medical facility, these statutes may apply.

(2) For installations located outside the United States, the custodial parent or legal guardian of a minor shall be denied access if all of the following conditions are met: the minor at the time of the treatment or consultation was 15, 16, or 17 years old; the treatment or consultation was within a program authorized by law or regulation to provide confidentiality to the minor; the minor indicated a desire that the treatment or consultation record be handled in confidence and not disclosed to a parent or guardian; and the custodial parent or legal guardian does not have the written authorization of the minor or a valid court order granting access.

(3) All members of the military services and all married persons are not considered minors regardless of age, and the parents of these individuals do not have access to their medical records without the written consent of the individual to whom the record pertains.