




Interoffice Memorandum

AGENDA ITEM

December 5, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

THRU: Yolanda G. Martinez, EdPhD., PhD., Director 
Health Services Department

FROM: Joshua Stephany, M.D., Medical Examiner/Division Manager
Medical Examiner's Office
Contact: (407) 836-9411

SUBJECT: Standing Written Request for Release of Protected Health Information from the Department of Veterans Affairs to the Medical Examiner's Office
Consent Agenda – December 17, 2019

The Department of Veterans Affairs, Orlando VA Medical Center, requires a standing written request letter for release of protected health information in order for the Medical Examiner's Office to obtain medical records permitted under our statutory obligations. The previous standing written request has expired. A renewal standing written request letter has been drafted and requires Board approval. The renewal will be valid for a period of three years.

In addition, authorization for the Medical Examiner, as the custodian of such records, to execute the letter.

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

Attachments

Cc: Danny Banks, Deputy County Administrator, County Administrator's Office
Sawsan Mohiuddin, Assistant County Attorney, County Attorney's Office
Dr. Randy Lewis, LMFT, CHP HIPAA Privacy Officer, Health Services Department



DEPARTMENT OF VETERANS AFFAIRS
Orlando VA Medical Center
13800 Veterans Way
Orlando, FL 32827

Florida Medical Examiner's Office, District 09
Dr. Joshua Stephany, Chief Medical Examiner
2350 E. Michigan Street
Orlando, Florida 32806-4939

Dear Dr. Stephany:

The purpose of this letter is to facilitate the process of releasing reportable information by the Department of Veterans Affairs (VA) to your agency 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 VA 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, does 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, VA will then have authority to contact you and transmit information under applicable State reporting laws.

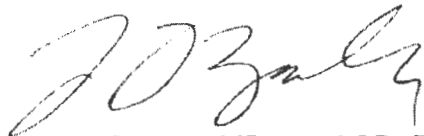
This standing written request letter will not authorize disclosure of information needed in the pursuit of a focused (individual specific and/or incident specific) activity such as a civil or criminal law enforcement investigation. It is solely designed to authorize routine disclosure of repetitively 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.

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 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, VA 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 Kasey Deline, Privacy Officer at 407-631-2825.

Sincerely yours,

A handwritten signature in black ink, appearing to read "L. Zacher", written in a cursive style.

Lisa Zacher, MD, MAACP, FCCP
Interim Medical Center Director

Enclosure: Sample Request Letter

BCC Mtg. Date: December 17, 2019

Date Sent

Orlando VA Medical Center
Lisa Zacher, MD, MAACP, FCCP
Interim Director
13800 Veterans Way
Orlando, FL 32827

RE: Standing Written Request for Release of Protected Health Information

Dear Dr. Zacher:

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.
Chief Medical Examiner