



Announcements

- Register for the Epi-Tech Trainings:
 1. Log-on or Request log-on ID/password:
<https://tiny.army.mil/r/zB8A/CME>
 2. Register for Epi-Tech Surveillance Training:
<https://tiny.army.mil/r/LEAid/EpiTechFY15>

- Please enter your name/service and e-mail into the chat box to the left or email the disease epidemiology program at:
usarmy.apg.medcom-phc.mbx.disease-epidemiologyprogram13@mail.mil
 - You will receive a confirmation email within the next 48 hours with your attendance record

- Please mute your phones and DO NOT place us on hold. Press *6 to mute/unmute your phone.

Integrity - Service - Excellence

Ryan A. Mueller, Capt, USAF, J.D.

Medical Law Consultant

AFLOA/JACC MLFSC

Wright-Patterson AFB, OH

DSN 787-9147



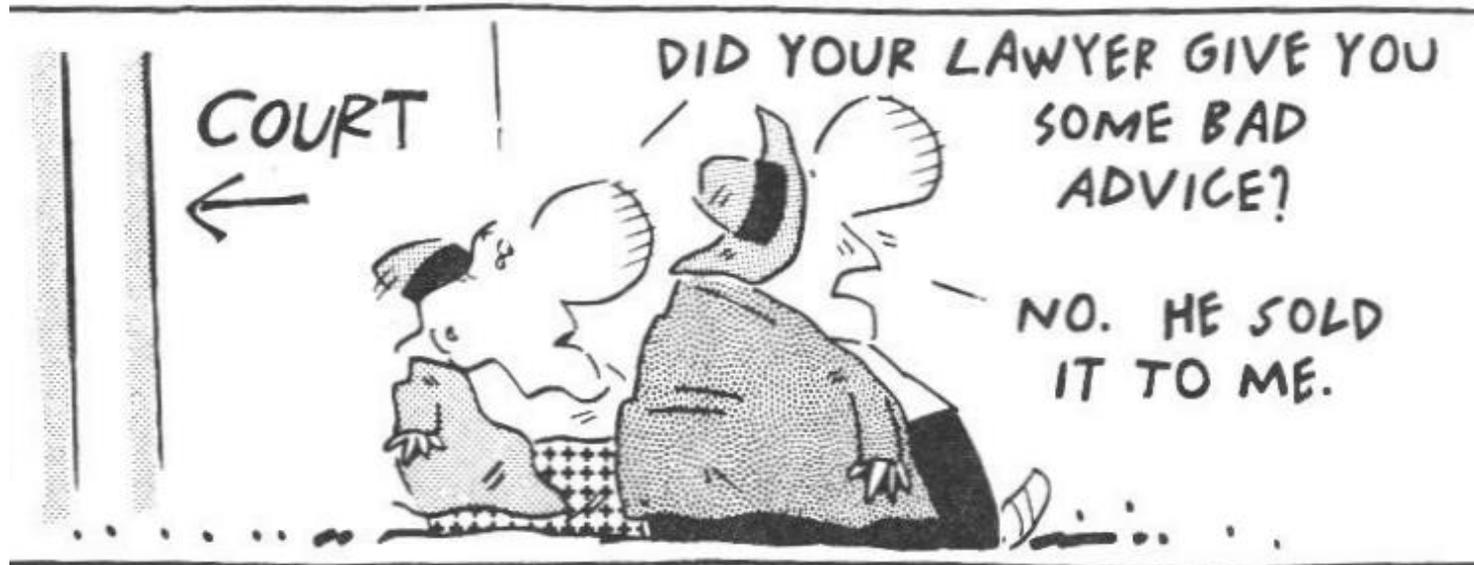
Integrity - Service - Excellence

- Medical-Legal Team
- Informed Consent
- Public Health Emergencies
- HIPAA





U.S. AIR FORCE



Integrity - Service - Excellence

Air Force Medical-Legal Team



MEDICAL LAW ATTORNEYS
HQ LEVEL (JACC)



MEDICAL LAW CONSULTANTS
REGIONAL (Reach-back model)



BASE LEGAL OFFICE

- Medical Group Commander's legal advisor
 - Medical law issues only
 - MJ, Fed Ethics, Legal Assistance, Installation issues - through base legal office

- Work with Medical Staff (Chief of Medicine, Chief Nurse, Risk Manager, etc...)

- Advice & guidance to treatment facilities and base legal offices
 - Regional



Medical Law Issues



- Federal and State regulations
- Credentialing/Privileging; Clinical Adverse Actions
- Informed Consent issues
- Training Affiliation Agreements (TAAs)
- Inter-agency agreements (MOUs/MOAs)
- Biomedical Ethics
- Human Research: law & ethics
- Post Decision Support
- HIPAA



U.S. AIR FORCE



Integrity - Service - Excellence

Informed Consent ***(IC)***

Integrity - Service - Excellence

- Consent obtained after the patient has been given sufficient information so that he/she:
 - understands the nature of the procedure to be performed,
 - the risks and consequences associated with it,
 - benefits to be expected, and
 - alternative therapies.
- The patient also has the right to ask questions, and to refuse.

Legal Elements:

- Information
- Understanding
- Timing
- Documentation

Things you should consider:

- **Language** (do they need a translator)
- **Rank** (are they afraid to ask questions due to military customs/courtesies)
- **Vocabulary /Education**
- **Age** (differences in generational gaps)

- Need informed consent for every procedure
 - Not all procedures require written IC

- Exceptions:
 - Implied consent
 - Prior consent
 - Waiver
 - Emergency
 - Therapeutic privilege
 - Extension doctrine
 - Legal order

Public Health Emergency?!

- Generally, an *adult* who is mentally competent has right to refuse any medical procedure to extent permitted by law
 - Even Active Duty members
- Personal autonomy
- Does not mean no consequences!



U.S. AIR FORCE



Integrity - Service - Excellence

Public Health Emergencies

Integrity - Service - Excellence



Public Health Emergencies



- Governed by DoDI 6200.03 and AFI 10-2519
 - DoDIs cover all four branches
 - Check with your individual services for service specific policies

- Military Installations Commanders, in consultation with their PHEO, may declare DoD public health emergencies

- Should work closely with the CDC and applicable state officials, when appropriate

- Commanders may take measures to protect military property and personnel
 - May extend to non-military personnel who are present
 - May close, evacuate, or destroy affected material
 - Take control of infected animals
 - Use facilities or materials as appropriate to control the spread
 - Direct military personnel to submit to medical exams

Restriction of Movement



- May restrict movement of military and non-military persons to prevent transmission of communicable diseases
 - Two types of restriction of movement:
 - Isolation and quarantine
 - Both help halt the transmission of communicable diseases
 - Both protect uninfected people from becoming exposed

- **Isolation** = the separation of ill persons who are contagious

- **Quarantine** = the separation of persons who have been exposed to a contagious disease and may or may not become ill



Restriction of Movement



- No person may enter the quarantine premise without authorization
- Civilians, as a condition of release, may be required to submit to vaccinations or treatment
 - Violations of the quarantine and isolation may be punishable by law: 18 U.S.C. 1382, 50 U.S.C. 797



U.S. AIR FORCE



HIPAA

Integrity - Service - Excellence

- Health Insurance Portability & Accountability Act (HIPAA)
 - Seeks to protect PHI (Personal Health Information)
 - Basic premise: Information cannot be used or disclosed except for specifically permitted purposes
 - Public Law 104-191
 - DoD 6025.18-R

Who is Covered?

- Covered entities
- Health care providers who transmit health information in (standard) electronic transactions
- Health plans (TRICARE)
- Health care clearinghouses, e.g., companies that perform electronic billing
- Our business associates

What is Covered?

- Protected Health Information (PHI)
- Individually identifiable health information including demographics, in electronic, paper or oral medium
- Held by covered entities or their business associates



Who and What ARE NOT Covered?



- Drug testing program of DoD
- Provision of healthcare to foreign national beneficiaries of MHS OCONUS
- DNA repository
- Provision of healthcare to enemy POWs and other detainees
- Education records maintained by DoDs schools
- Records maintained by DoD day care centers
- Military Entrance Processing Stations
- Reserve component medical activities outside the MTF

- What disclosures are generally allowed:
 - Disclosures to or requests by a health care provider for treatment, payment or healthcare operations (i.e. essential, everyday activities).
 - Disclosures to the individual who is the subject of the information.
 - Uses or disclosures made pursuant to an individual's authorization.
 - Uses or disclosures that are required by other laws.



Authorization



- Covered entities must obtain an individual's authorization before using or disclosing PHI for purposes other than *treatment, payment, or health care operations*
- Covered entities cannot condition provision of treatment, payment, enrollment, or eligibility upon an authorization
- Individuals have the right to use an authorization to request the restriction of the use of their PHI

Use/Disclosure

Opportunity to Object

- Facility directory
 - Name, location, condition in general terms
 - Religious affiliation (for use by clergy only)

- Involvement in care/notification
 - To family member, relative, close personal friend
 - Information directly relevant to their involvement
 - Notify of location, general condition, death

For the permitted uses and disclosures listed below, a patient's opportunity to agree or object is not required:

- **as required by law**
- avert serious threats to health or safety
- **specialized government functions**
- judicial and administrative proceedings
- law enforcement purposes
- cadaver organ, eye, or tissue donation purposes
- victims of abuse, neglect, or domestic violence
- inmates in correctional institutions or in custody
- workers' compensation
- research purposes
- **public health activities**
- **health oversight activities**
- about decedents

If PHI is disclosed, it must be: Relevant and Minimally Necessary

- PHI is releasable to Law Enforcement
 - Good faith request
 - Minimum amount necessary (no fishing expeditions)
- MTF is the covered entity and is liable for release
- DoD 6025.18-R, para. C7.6
 - Request must be in writing, specific, and limited in scope
 - The information sought must be relevant and material to a legitimate law enforcement inquiry
 - Run requests through base legal to ensure that elements are met



Public Health Uses and Disclosures Under HIPAA

- Authority: DoD 6025.18-R, para. C7.2.1.
- Permitted Disclosures:
 - General Public Health Activities
 - Other Public Health Activities
 - Child abuse or neglect
 - Performance of FDA-regulated product or activity
 - Persons at risk of contracting or spreading disease
 - Workplace medical surveillance



DoD Administered Public Health Activities



Activities of the Department of Defense authorized by applicable DoD Regulation to carry out functions identified in paragraph C7.2.1. are included as public health activities for purposes of that paragraph.



General Public Health Disclosures



- May disclose to a “public health authority” authorized by law to collect PHI to prevent or control:
 - disease, injury,
 - Including birth or death, public health investigations, and public health interventions; or

- May also disclose to foreign government agency official collaborating with a “public health authority” at the direction of the “public health authority.”



Disease Exposure



- May disclose PHI to a person who may have been exposed to a communicable disease,
 - if authorized by law to notify such person as necessary in the conduct of a public health investigation.

- Allowed to work with host state
 - AFI 48-105 requires us to comply to state regs



To Prevent a Serious Threat



- Under DoD 6025.18-R, C7.10, covered entities may disclose information
 - If necessary to prevent or lessen a serious and imminent threat to the safety of a person or public
 - There is a presumption of a good faith belief if belief is based upon the covered entity's knowledge or relying on a credible representation
 - Must notify the person who is the subject of the disclosure if made outside the DoD.

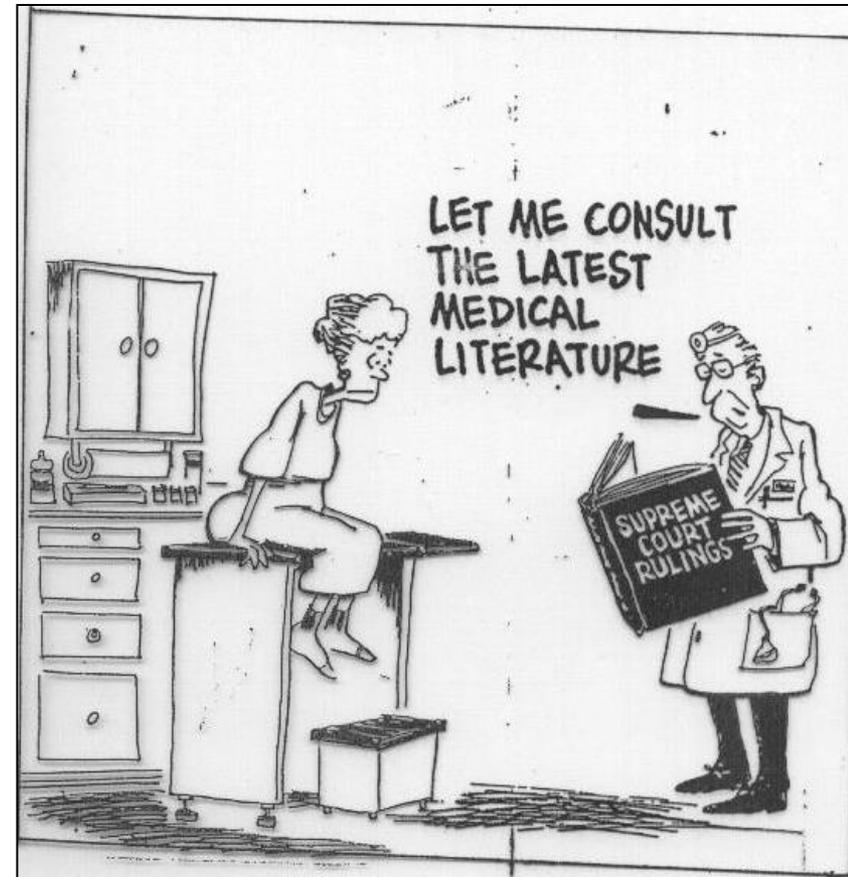


Workplace Medical Surveillance



- May disclose to an employer about an employee if:
 - 1.a. Provider works for the employer; or
 - 1b. Provides healthcare to the employee at the request of the employer for medical workplace surveillance or to see if there was a work-related illness or injury;
- 2. The protected health information that is disclosed consists of findings about a work-related illness or injury;
- 3. The employer needs such findings in order to comply with Federal or State laws; and
- 4. Provider provides written notice to the employee that PHI relating to the work-related illness and/or injury is disclosed to the employer by either:
 - Giving a copy of the notice to the employee; or
 - If healthcare provided at employer's work site, by posting the notice in a prominent place at the worksite.

- Med-Legal Team
- Informed Consent
- Public Health Emergencies
- HIPAA





U.S. AIR FORCE



QUESTIONS ?

Integrity - Service - Excellence

Contact Information

- Army: USAPHC – Disease Epidemiology Program
Aberdeen Proving Ground – MD
Comm: (410) 436-7605 DSN: 584-7605
usarmy.apg.medcom-phc.mbx.disease-epidemiologyprogram13@mail.mil
- Navy: Contact your cognizant NEPMU
NEPMU2: COMM: (757) 950-6600; DSN: (312) 377-6600
Email: usn.hampton-roads.navhospporsva.list.nepmu2norfolk-threatassess@mail.mil
NEPMU5: COMM: (619) 556-7070; DSN (312) 526-7070
Email: HealthSurveillance@med.navy.mil
NEPMU6: COMM: (808) 471-0237; DSN: (315) 471-0237
Email: usn.jbphh.navenpvntmedusixhi.list.nepmu6@mail.mil
NEPMU7: COMM (int): 011-34-956-82-2230 (local): 722-2230; DSN: 94-314-727-2230
Email: NEPMU7@eu.navy.mil
- Air Force: Contact your MAJCOM PH or USAFSAM/PHR
USAFSAM / PHR / Epidemiology Consult Service
Wright-Patterson AFB, Ohio
Comm: (937) 938-3207 DSN: 798-3207
episervices@us.af.mil