

# MS 268 Medical Confidentiality

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## 1.0 Authorities

22 U.S.C. 2504(e); 5 U.S.C. 552a; 42 U.S.C.1320d *et seq.*; 45 C.F.R. Parts 160 and 164

The Peace Corps is subject to the Privacy Act, and the Health Insurance Portability and Accountability Act (HIPAA) and its implementing regulations. HIPAA applies only to the Agency's operations in the United States.

**The Privacy Act** generally limits disclosure of information in a Volunteer's health records, but does permit disclosure of such information to those within the Agency who have a need to know the information in the performance of their duties. It also permits disclosure for reasons that are listed in the Privacy Act and in the Agency's published systems of records. *See MS 897, Privacy Act Administration.*

**HIPAA** generally limits the disclosure of protected health information for purposes other than treatment or payment, unless there is an authorization from the affected individual to disclose the information. Peace Corps policy requires all applicants for Peace Corps service (and Volunteers), as a condition of being considered for Peace Corps service, to sign an authorization that allows the Peace Corps to use health information on a need-to-know basis for program administration. *See MS 262.* Thus, most of the limitations that HIPAA might otherwise place on the use and disclosure of medical information *within the Peace Corps* are not applicable. Peace Corps staff, particularly medical staff, however, need to be generally aware of

the HIPAA regulations, and make sure that any disclosure of medical information, particularly to someone outside of the Agency within the United States for a purpose that does not relate to treatment or payment, is in fact permissible under HIPAA. Consultation with the Office of the General Counsel is recommended.

## **2.0 Definitions**

**2.1 *Medically confidential information*** is oral or written information, directly relating to the past, present or future health condition, care or treatment of a Volunteer contained in the Volunteer's Peace Corps health record or provided by the Volunteer to the Office of Medical Services (OMS) or the Office of Special Services staff, a Peace Corps Medical Officer (PCMO), or another health care provider.

**2.2** The term *Staff* includes Peace Corps Direct Hire employees, personal services contractors, and experts and consultants.

**2.3 *Treatment*** means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

**2.4** The term *Volunteer* includes a Trainee, Volunteer, returned Volunteer, and an applicant for Peace Corps service.

## **3.0 Purpose**

This manual section sets out the Agency's policies and procedures regarding the appropriate use and disclosure of medically confidential information of Peace Corps Volunteers. Volunteer personal health information includes the information in a Volunteer's health records maintained by the Peace Corps and related oral information. Such information normally includes information on medical screening, medical care and treatment during Peace Corps service, and post-service medical care relating to FECA benefits.

## **4.0 Policies**

**4.1** The Peace Corps policy on disclosure of medically confidential information is designed to comply with applicable legal requirements. It is also intended to balance the interest in encouraging Volunteers to provide the PCMO or others providing health care or treatment with all the information necessary for proper care and treatment with the Agency's need to have access to the information necessary to administer the Peace Corps program.

**4.2** Peace Corps staff are responsible for protecting medically confidential information with particular care. However, when disclosure of medically confidential information is specifically necessary for non-medical Peace Corps staff to do their jobs, protect the safety, health, and

security of Volunteers, and otherwise manage Peace Corps programs, such information may be disclosed to Peace Corps staff other than medical personnel. Such information may be disclosed only to a staff person who has a specific need to know the information in order to perform his or her official duties.

**4.3** When medically confidential information is disclosed to someone other than medical personnel, the responsibility for the confidentiality of that information is *extended* to the non-medical person. The information remains confidential, and may be further disclosed to other Peace Corps staff only on a specific need-to know basis. When extending medical confidentiality, care shall be taken to disclose only the minimal amount of information necessary. When medically confidential information is extended, the person disclosing the information is responsible for letting the recipient know that he or she is responsible for keeping the medical information confidential.

## **5.0 Disclosure of Medically Confidential Information**

**5.1** Medically confidential information may be disclosed to physicians, other health care providers and medical personnel, psychiatrists or clinical psychologists treating or involved in the medical treatment and/or care of a Volunteer and having a need for such records for treatment purposes. In situations where it is practicable, the Volunteer's consent will be obtained before releasing such information.

**5.2** Medically confidential information may be disclosed to Peace Corps staff with a specific need to know the information to do their job. When the Country Director (CD) needs medically confidential information in order to properly manage the post, such information shall be disclosed to the CD or designee.

**5.3** Medically confidential information may be disclosed as authorized in writing by the individual whose medical information is involved.

**5.4** Medically confidential information may be disclosed to the Volunteer's family members or others only to the extent authorized in writing by the Volunteer. The confidentiality of the Volunteer must be respected, even when faced with concern expressed by family members. Notification in situations where the Volunteer is incapable of providing consent or is considered to have a serious or illness or injury will be provided to those designated by the Volunteer as emergency contacts on the *Trainee/Volunteer Registration Form*.

**5.5** Medically confidential information may be disclosed to entities with which the Peace Corps has "business associate" agreements relating to payment for services or other health care operations, to the extent necessary to arrange for such payment or perform such other operations.

**5.6** Except in situations involving treatment or payment for services, disclosure of medically confidential information shall be of the minimum amount necessary.

**5.7** Medically confidential information may not be disclosed to others than Peace Corps staff except for purposes of medical treatment or payment or as otherwise authorized by the Privacy Act and HIPAA, as applicable.

**5.8** When in doubt about the legality of disclosing medically confidential information, consult with the Office of the General Counsel.

## **6.0 Illustrative Examples**

### **6.1 Medically Confidential Information Required to be Disclosed**

The following are examples of medically confidential information that must be disclosed by the Peace Corps Medical Officer (PCMO) to the Country Director or designee:

- (a) The existence of a medical condition that requires accommodation, and the nature of the accommodation;
- (b) Evidence of use of drugs by a Peace Corps Volunteer in a manner not authorized for medical purposes;
- (c) Information relating to a serious threat to the health or safety of the Volunteer or to any other person;
- (d) The fact that a Volunteer is the victim of a physical or sexual assault. In such cases, the Country Director must immediately notify the Office of Safety and Security (OSS); and
- (e) Information requested by the OSS under OSS or other authority.

### **6.2 Medically Confidential Information that May be Disclosed**

The following are examples of information that may be disclosed on a specific need-to-know basis to non-medical Peace Corps staff:

- (a) Information about a Volunteer's non-compliance with medical advice or policies that pose a serious risk of harm to the Volunteer or others (e.g., failure to use malaria prophylaxis);
- (b) Information relating to a Volunteer's provision of misleading, inaccurate, or incomplete medical information to the Peace Corps during the application process;
- (c) Medical information relating to a medevac, if the information is necessary to ensure proper arrangements for the medevac;
- (d) Information about a Volunteer's medical condition if it is necessary to ensure the safety or security of the Volunteer or other person. (For example, if the Volunteer's medical condition might affect the ability to evacuate the Volunteer in an emergency, or may require additional assistance from another person);

- (e) Information about a Volunteer's medical condition that is affecting the Volunteer's performance, or wellbeing; and
- (f) Information relating to risky sexual or other behavior that may be putting the health of the Volunteer or another person at serious risk.

### **6.3 Information That is Not Medically Confidential**

The following information is not considered medically confidential:

- (a) Non-medical information not directly related to the individual's medical care or treatment that is provided to the PCMO or other health care;
- (b) Medical information voluntarily provided by the individual to non-medical Peace Corps staff or others; (Although not medically confidential, the information may need to be handled with discretion.);
- (c) Information about the impact of an individual's medical condition on his or her ability to be at site, perform work assignments, or engage in other Peace Corps-related activities, without describing the underlying conditions; e.g.; the fact that a Volunteer will be absent from site and the period of expected absence; the fact that a Volunteer requires medevac and the likely duration; limitations on the ability to perform particular tasks because of medical conditions for which the individual is being accommodated;
- (d) Statistical information related to the occurrence of diseases, injuries or other medical conditions among Volunteers that may be relevant to the conduct of the Peace Corps program;
- (e) Routine individual immunization information;
- (f) Behavior problems that may arise that can be discussed without revealing the underlying condition; and
- (g) Information about sexual harassment by any Peace Corps staff, Volunteers, or anyone else associated with the Peace Corps.

### **7.0 Effective Date**

The effective date is the date of issuance.