



Defense Health Agency

ADMINISTRATIVE INSTRUCTION

NUMBER 050
November 3, 2017

PCLO/J-1/8

SUBJECT: Accounting of Disclosures of Personally Identifiable Information (PII) and Protected Health Information (PHI)

References: See Enclosure 1.

1. PURPOSE. This Defense Health Agency-Administrative Instruction (DHA-AI), based on the authority of References (a) and (b), and in accordance with guidance of References (c) through (j):

a. Establishes the Defense Health Agency's (DHA) procedures for accounting of disclosures of PII and PHI.

b. Incorporates, updates, and cancels Reference (k).

2. APPLICABILITY. This DHA-AI applies to all DHA personnel to include: assigned, attached, or detailed Service members, federal civilians, contractors (when required by the terms of the applicable contract), and other personnel assigned temporary or permanent duties at DHA, to include regional and field activities (remote locations) and the National Capital Region Medical Directorate activities/J-11 (centers, clinics, and Medical Treatment Facilities).

3. POLICY IMPLEMENTATION. It is DHA's policy, pursuant to References (d) through (j), that:

a. DHA will provide individuals with awareness about disclosures of their PII and PHI. An individual, upon written request, has the right to receive an accounting of certain disclosures made by DHA to outside entities in accordance with Enclosure 2 of this DHA-AI. An accounting of disclosures must detail the date, name of recipient (and address, if known), and a brief description of the PII or PHI disclosed, and the purpose of the disclosure. Disclosures may involve PII or PHI as defined herein. This publication implements DHA's responsibilities surrounding the provision of an accounting of disclosures of PII or PHI.

b. Upon written request, each DHA Office must provide a full accounting of disclosures of PII or PHI made by that respective office to the requesting individual, in accordance with this DHA-AI and References (d) and (e).

4. RESPONSIBILITIES

a. DIRECTOR, DHA. The Director, DHA, will:

(1) Maintain oversight activities and management controls to ensure compliance with this DHA-AI.

(2) Delegate authority to the DHA Privacy and Civil Liberties Office (PCLO) to develop and update supporting templates, training, and guidance under this DHA-AI, as necessary.

b. CHIEF, DHA PCLO. The Chief, DHA PCLO, will:

(1) Develop and maintain templates, training, and guidance available under this DHA-AI, as necessary.

(2) Periodically, and as needed, inspect documents developed by DHA Offices that demonstrate compliance with this DHA-AI, including copies of any written procedures or forms utilized in support of a DHA Office's written procedure(s).

5. PROCEDURES. See Enclosure 2.

6. RELEASABILITY. **Not cleared for public release.** This DHA-AI is available to users with Common Access Card authorization on the DHA SharePoint site at: <http://www.health.mil/dhapublications>.

7. EFFECTIVE DATE. This DHA-AI:

a. Is effective upon signature.

b. Will expire 10 years from the date of signature if it has not been reissued or cancelled before this date in accordance with DHA-Procedural Instruction 5025.01 (Reference (c)).



for R.C. BONO
VADM, MC, USN
Director

Enclosures

1. References
2. Procedures

Appendices

1. Determining if an Accounting of Disclosures is Required
2. Procedures for Providing an Accounting of Disclosures Involving Personally Identifiable Information that Contains Protected Health Information

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5136.01, "Assistant Secretary of Defense for Health Affairs (ASD(HA))," September 30, 2013
- (b) DoD Directive 5136.13, "Defense Health Agency (DHA)," September 30, 2013
- (c) DHA-Procedural Instruction 5025.01, "Publication System," August 21, 2015
- (d) DoD Directive 5400.11-R, "Department of Defense Privacy Program," May 14, 2007, as amended
- (e) DoD Directive 6025.18-R, "DoD Health Information Privacy Regulation," January 24, 2003
- (f) DoD Directive 5400.07, "DoD Freedom of Information Act (FOIA) Program," January 2, 2008, as amended
- (g) Code of Federal Regulations, Title 45, Parts 160 and 164
- (h) DoD Directive 5400.11, "DoD Privacy Program," October 29, 2014
- (i) DoD Instruction 6025.18, "Privacy of Individually Identifiable Health Information in DoD Health Care Programs," December 2, 2009
- (j) Public Law 104-191, "Health Insurance Portability and Accountability Act of 1996," August 21, 1996 (also known as "HIPAA"), as amended
- (k) TRICARE Management Activity Administrative Instruction 050, "Policy and Procedures for Accounting of Disclosures of Personally Identifiable Information and Protected Health Information," May 31, 2012 (hereby cancelled)

ENCLOSURE 2

PROCEDURES

1. GENERAL REQUIREMENTS

a. Each DHA Office will provide an accounting of disclosures of PII and PHI made by that respective office in accordance with this DHA-AI and References (d) and (e). The request for an accounting must:

(1) Be made in writing; and

(2) Be verified by the DHA Office regarding the identity and authority of the requestor prior to providing the accounting.

(a) The Protected Health Information Management Tool (PHIMT) is a legacy system that is currently available to DHA workforce members for documenting and retrieving disclosure logs for PHI accounting purposes. Additional information regarding PHIMT can be found at: <http://www.health.mil/Military-Health-Topics/Technology/Healthcare-Resources/Protected-Health-Information-Management-Tool>.

(b) The DHA PCLO's Accounting of Disclosure Templates are available at: <https://info.health.mil/cos/admin/privacy/hipaacompliance/SitePages/Home.aspx>.

(3) Include training and awareness programs for DHA workforce members responsible for, or involved in, disclosing PII or PHI or responding to requests for an accounting of disclosures.

b. The DHA PCLO reserves the right to inspect documents demonstrating compliance with this DHA-AI. A copy of the written procedures, including documents and/or forms utilized in support of a DHA Office's written procedure(s), must be provided to the DHA PCLO upon request.

c. Each DHA Office must maintain a documented history of when and to whom disclosures of PII and PHI are made, to include:

(1) The date of the disclosure.

(2) The name of the entity or person who received the information and, if known, the address of such entity or person.

(3) A brief description of the information disclosed.

(4) A brief statement of the purpose of the disclosure that reasonably informs the beneficiary of the basis for the disclosure, or, in lieu of such statement, a copy of the written

request for disclosure from the person or entity requesting such disclosure.

d. Accounting of disclosure logs must be retained:

(1) For 5 years after the disclosure was made, or the life of the record, whichever is longer, for disclosures of PII that do not contain PHI, including research-related disclosures; or

(2) For 6 years after the disclosure was made for disclosures involving PHI.

2. DISCLOSURES INVOLVING PII THAT DO NOT CONTAIN PHI

a. In accordance with Reference (d), the term disclosure includes the transfer of any personal information from a system of records by any means of communication to any person, private entity, or Government Agency, other than the subject of the record, the subject's designated agent, or the subject's legal guardian.

b. For the purposes of disclosure and disclosure accounting:

(1) The DoD is considered a single agency and, therefore, the requirements for disclosure accounting do not apply when PII is shared between DoD Components.

(2) DHA Offices may release PII pursuant to requests for information in accordance with Reference (f) without the need to account for such releases in an accounting of disclosure record.

c. DHA Offices must account for and provide an accounting of all disclosures of PII made by DHA from a system of records within the last 5 years.

d. DHA Offices are not required to include the following in an accounting of disclosures:

(1) Disclosures made to a law enforcement official when the law enforcement official has requested in writing that the disclosure to the individual not be made for a specified period of time; or

(2) Disclosures made from a system of records that have been exempted from the requirement to furnish the disclosure accounting pursuant to C4.2.7 of Reference (d).

e. Notwithstanding the number or category of records released, DHA Offices must be able to construct an accounting of disclosures for individual records, if required.

f. If a DHA Office makes corrections or notations of dispute to any record, the office must inform any person or agency to whom it has disclosed the original information if an accounting of disclosures was made.

g. Enclosure 2, Appendix 1, provides additional guidance on accounting for disclosures of PII in accordance with Reference (d).

3. DISCLOSURES INVOLVING PHI

a. In accordance with Reference (e), if the information disclosed contains PHI, the term disclosure includes releasing, providing access, or divulging PHI, in any other manner, outside the entity holding the information.

b. DHA Offices must account for the following types of disclosures involving PHI:

(1) When required by law or government regulation, e.g., DHA may use or disclose PHI to the extent that such use or disclosure is required by law, and the use or disclosure complies with and is limited to the relevant requirements of such law.

(2) For public health activities, e.g., to a public health authority that is authorized by law to collect information for the purpose of preventing or controlling disease, injury, or disability.

(3) About victims of abuse, neglect, or domestic violence, e.g., to a public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect or reports of elder and dependent abuse reporting.

(4) For health oversight activities authorized by law, e.g., to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative or criminal proceedings or actions; or other activities necessary for the appropriate oversight of:

(a) The Health Care System. For purposes of this DHA-AI, Health Care System means the Military Health System.

(b) Government benefit programs for which health information is relevant to beneficiary eligibility.

(c) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards.

(d) Entities subject to civil rights laws for which health information is necessary for determining compliance.

(5) For judicial or administrative proceedings, e.g., in the course of any judicial or administrative order of a court, subpoena, or discovery request, provided that the DHA Office discloses only the PHI expressly authorized by such order, or in response to a subpoena, discovery request, or other lawful process.

(6) For law enforcement purposes e.g., to a law enforcement official pursuant to a judicial or administrative order or search warrant.

(7) Concerning decedents in limited circumstances, e.g., to a coroner or medical examiner to assist such official in authorized duties or to a funeral director to assist such

individual in carrying out his or her duties.

(8) For cadaveric organ, eye, or tissue donation purposes, e.g., to an organ procurement organization for organ, eye, or tissue donation purposes.

(9) For research pursuant to an Institutional Review Board or Privacy Board-approved waiver of Health Insurance Portability and Accountability Act (HIPAA) authorization in accordance with Reference (g), pursuant to an investigator's certification that the use of PHI is "preparatory to research", or pursuant to an investigator's certification that he/she is conducting research on the decedent's information.

(10) To avert a serious threat to health or safety, e.g., to a third-party to prevent serious threat to health or safety.

(11) For specialized government functions, including certain activities relating to Armed Forces' personnel.

(12) For workers' compensation programs, e.g., as authorized by and to comply with workers' compensation laws, i.e., laws that provide compensation for work-related injuries and illnesses regardless of fault.

(13) For inadvertent or erroneous disclosures of PHI.

c. If there were multiple disclosures to the same person or entity for a single purpose, the accounting may provide:

(1) The information required in Enclosure 2, Procedures, General Requirements, 1. c (4) of this DHA-AI for the first disclosure.

(2) The frequency, periodicity, or number of disclosures made during the accounting period.

(3) The date of the last such disclosure during the accounting period.

d. DHA Offices are not required to account for disclosures:

(1) To carry out treatment, payment, or health care operations.

(2) To the beneficiary.

(3) Pursuant to a valid authorization.

(4) For facility directories or to persons involved in the beneficiaries' care or other notification purposes.

(5) To federal officials for national security or intelligence purposes.

(6) To correctional institutions or law enforcement officials that have custody of the individual.

(7) That are a part of a Limited Data Set (LDS).

(8) Incident to a use or disclosure otherwise permitted or required by Reference (e).

e. Enclosure 2, Appendix 2, provides additional guidance on accounting for disclosures of PHI in accordance with Reference (e).

4. RESPONDING TO A REQUEST FOR AN ACCOUNTING OF DISCLOSURES

a. Upon receipt of a written request for an accounting of disclosures, DHA Offices must verify the identity of the person requesting the accounting of disclosures and the authority of any such person to have access to the information requested, if the identity or any such authority of such person is not known to the DHA Office.

b. Each DHA Office is required to respond to a request for an accounting of disclosures within 60 calendar days after the receipt of such a request. An extension for an additional 30 calendar days may be used to respond to the requestor if certain conditions are met as set forth in Section C13.3 of Reference (e). Such time frames will ensure compliance with Section C4.5 of Reference (d).

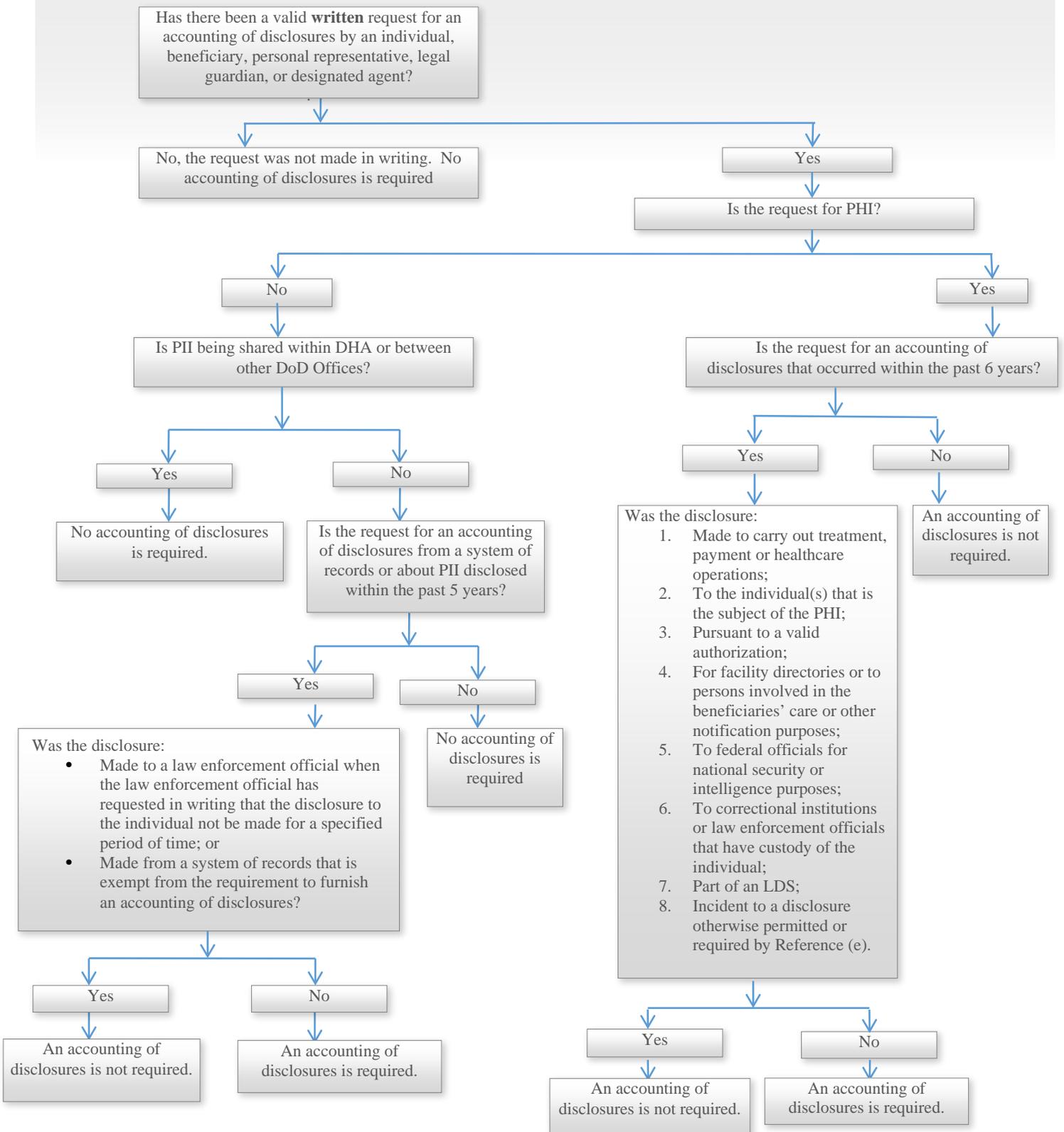
c. Within 2 business days after receipt of an individual's written request for an accounting, the office's Records Management personnel or designated DHA workforce member for the respective office, must initiate coordination to respond to the request.

d. Each DHA Office will coordinate its response to a request for an accounting of disclosures with the DHA PCLO to ensure the individual receives a complete accounting of all disclosures made by DHA in accordance with this DHA-AI.

e. See Enclosure 2, Appendix 2, for additional guidance on responding to requests for an accounting of disclosures.

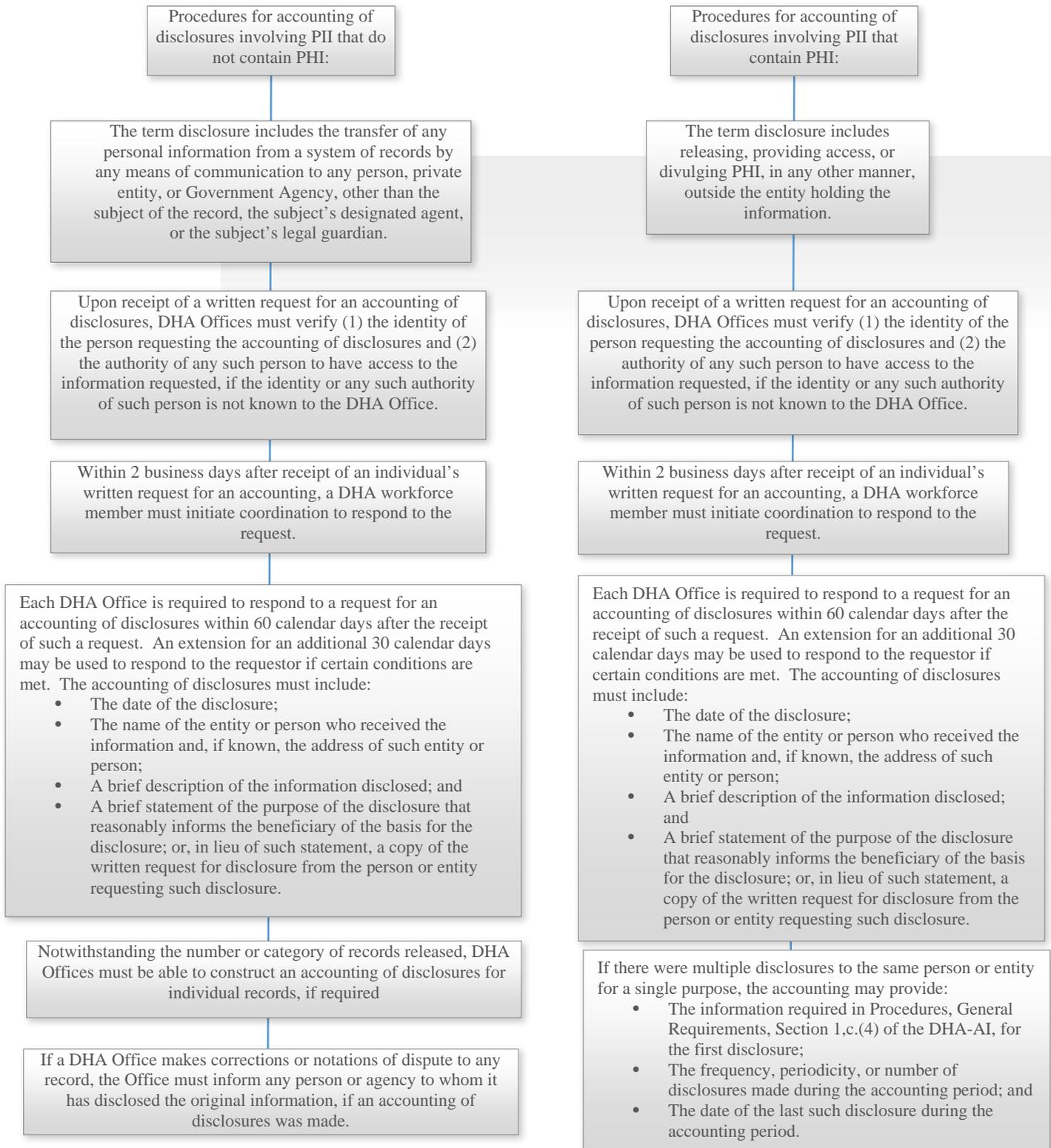
APPENDIX 1

DETERMINING IF AN ACCOUNTING OF DISCLOSURES IS REQUIRED



APPENDIX 2

PROCEDURES FOR PROVIDING AN ACCOUNTING OF DISCLOSURES INVOLVING PERSONALLY IDENTIFIABLE INFORMATION THAT CONTAINS PROTECTED HEALTH INFORMATION



GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

DHA	Defense Health Agency
DHA-AI	Defense Health Agency-Administrative Instruction
HIPAA	Health Insurance Portability and Accountability Act
LDS	Limited Data Set
PCLO	Privacy and Civil Liberties Office
PHI	Protected Health Information
PHIMT	Protected Health Information Management Tool
PII	Personally Identifiable Information

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this DHA-AI.

disclosure. When involving PII without PHI, disclosure is a term that includes the transfer of any personal information from a system of records by any means of communication to any person, private entity, or Government Agency, other than the subject of the record, the subject's designated agent, or the subject's legal guardian. When a disclosure contains PII and PHI, it is defined as releasing, providing access to, or divulging PHI, in any manner, outside the entity holding the information.

DoD Components. The OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.

LDS. PHI that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual: names; postal address information, other than town or city, state and zip code; telephone numbers; fax number; electronic mail addresses; Social Security numbers; medical record numbers; health plan beneficiary numbers; account numbers; certificate/license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web Universal Resource Locators; Internet Protocol address numbers; biometric identifiers, including finger and voice prints; and full-face photographic images and any comparable images.

PHI. Individually identifiable health information created, received, or maintained by a covered entity, including DHA, that is transmitted or maintained by electronic or any other form or

medium, except as otherwise contained in employment records held by DHA in its role as an employer.

PHIMT. A legacy system that is currently available to DHA workforce members for documenting and retrieving disclosure logs for PHI accounting purposes.

PII. Information which can be used to distinguish or trace an individual's identity; such as name, Social Security number, date and place of birth, mother's maiden name, biometric records, home phone numbers, and any other demographic, personnel, medical, and financial information. PII includes any information that is linked to a specified individual, alone, or when combined with other personal or identifying information.