DoD Instruction 6490.08

Command Notification Requirements to Dispel Stigmas in Providing Mental Health Care to Service Members

Originating Component:	Office of the Under Secretary of Defense for Personnel and Readiness
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Approved by:	Gilbert R. Cisneros, Jr, Under Secretary of Defense for Personnel and Readiness

Purpose: In accordance with the authority in DoD Directive 5124.02 and pursuant to Section 704 of Public Law 117-263, this issuance:

- Establishes policy, assigns responsibilities, and prescribes procedures for health care providers for determining command notification requirements as applied to:
  - Service members' involvement in mental health care, overriding command disclosure provisions usually followed for non-mental health care pursuant to DoD Manual 6025.18 and Parts 160 and 164 of Title 45, Code of Federal Regulations.
  - Service members who voluntarily seek substance misuse education services, evaluation, or treatment in accordance with DoD Instruction (DoDI) 1010.04.
- Promotes reducing stigma in obtaining mental health care services by balancing patient confidentiality with a commander's need to know certain information for military operational and risk management decisions, ensuring, except in a case in which there is an exigent circumstance, the confidentiality of mental health care services provided to members who voluntarily seek such services.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

This issuance applies to:

a. 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 Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the "DoD Components").

b. Health care provider disclosures to command authorities in accordance with DoD Manual 6025.18, providing greater confidentiality as a means to encourage voluntary help-seeking behavior and dispel stigma in seeking mental health care.

1.2. POLICY.

a. DoD fosters a culture of support and strives to create an environment that promotes help-seeking behaviors and reduces the stigma for help-seeking in the provision of mental health care and voluntarily sought substance misuse education to Service members, in order to dispel the stigma of seeking mental health care or substance misuse education services. Unrestricted, non-stigmatizing access to mental health care services, which includes voluntarily sought substance misuse education, is essential to maintaining the health and readiness of the total force.

b. A Service member's use of military health system mental health care resources, to include substance misuse education services, will not be reported to their commander except under the exigent circumstances defined in this instruction.

(1) The use of military health system resources includes substance misuse education services and results of any drug testing incident to such mental health care services.

(2) Unless the presumption of confidentiality is overcome by one of the notification standards listed in Section 3, there will be no command notification.

(3) In making a disclosure pursuant to the notification standards, health care providers will provide the minimum amount of information to the commander concerned as required to address the exigent circumstance that overcomes the presumption of confidentiality.

SECTION 2: RESPONSIBILITIES

2.1. ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS (ASD(HA)).

Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the ASD(HA):

a. Develops policy for health care providers for determining command notification requirements as outlined in Section 3.

b. Oversees compliance with this issuance through the review of reporting requirements that assess the effectiveness of this issuance.

2.2. DIRECTOR, DEFENSE HEALTH AGENCY (DHA).

Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, through the ASD(HA), and in addition to the responsibilities in Paragraph 2.3., the Director, DHA:

a. Publishes guidance necessary to implement this issuance that is:

(1) Applicable to DoD health care providers.

(2) Comparable to those in Section 3 for applicability to non-DoD health care providers in the context of mental health services provided to Service members under the private sector care component of the TRICARE Program, to promote compliance with communication standards regarding mental health and substance misuse education.

b. Reviews compliance and effectiveness of command notification for DoD and non-DoD health care providers when a Service member meets one of the exigent circumstances provided in Paragraph 3.1.b.

c. Evaluates the effectiveness and compliance with this issuance, and recommends improvements to the Office of the ASD(HA), as requested, or at least every 2 years.

2.3. DOD COMPONENT HEADS.

The DoD Component heads will publish guidance necessary to implement this issuance.

2.4. SECRETARIES OF THE MILITARY DEPARTMENTS.

In addition to the responsibilities in Paragraph 2.3., the Secretaries of the Military Departments:

a. Provide procedures to:

(1) Carry out requirements as provided in Section 3.

(2) Review compliance and effectiveness of command notification when a Service member meets one of the exigent circumstances provided in Paragraph 3.1.b.

b. Monitor guidance provided by the DHA applicable to non-DoD health care providers in the context of mental health services provided to Service members under the private sector care component of the TRICARE Program.

c. Evaluate the effectiveness and compliance with this issuance, and recommend improvements to the Office of the ASD(HA), as requested, or at least every 2 years.

SECTION 3: EXIGENT CIRCUMSTANCES AUTHORIZING COMMAND NOTIFICATION

3.1. HEALTH CARE PROVIDERS.

a. Command notification by health care providers is prohibited for protected health information when a Service member voluntarily requests mental health care or substance misuse education, unless the Service member authorizes the notification or the disclosure is authorized for one of the exigent circumstances listed in Paragraphs 3.1.b.(1) through 3.1.b.(9).

b. Health care providers will notify the commander concerned in any of these exigent circumstances:

(1) Harm to Self.

(a) The provider believes there is a serious risk of self-harm by the Service member. Considerations for risk to harm self that require notification include, but are not limited to:

1. Modifying the Service member's daily activities to lower the risk of harm;

2. Soliciting changes in activities from the patient in order to ensure safety; or

3. Perceiving a concern about the Service member having access to lethal means.

(b) As a general rule for providers, if it is believed that the Service member is at an elevated risk of harm sufficient to require a member specific safety plan, then it is wise to assume that the situation has risen to a level where the command needs to know as well. If the provider is uncertain whether or not command notification is warranted, then consultation with another health care provider is highly recommended. Ultimately, ensuring the Service member's safety and well-being should be the overriding priority.

(2) Harm to Others.

(a) The provider believes there is a serious risk of harm to others. This includes any disclosures concerning child abuse or domestic violence consistent with DoDI 6400.06. Considerations for risk to harm others that require notification include, but are not limited to:

1. Modifying the Service member's daily activities to lower the risk of harm;

2. Soliciting changes in activities from the patient in order to ensure safety; or

3. Perceiving a concern about the Service member having access to lethal means.

(b) As a general rule for providers, if it is believed that the Service member is at an elevated risk of harm sufficient to require a member specific safety plan or notification to a named target of a threat, then it is wise to assume that the situation has risen to a level where the command needs to know as well.

(3) Harm to Mission.

(a) The provider believes there is a serious risk of harm to a specific military operational mission. Serious risk may include disorders that significantly impact impulse control, insight, reliability, and judgment.

(b) The provider must distinguish that a symptom is impacting the Service member's specific occupational specialty affecting their ability to perform the full range of duties, resulting in potential harm to the mission; thus, the provider must be familiar with the patient's military duties.

(c) Any provider who treats Service members will make every effort to understand the military duties of those patients and the mission of their respective units.

(4) Special Personnel.

The Service member is in the Nuclear Weapons Personnel Reliability Program as described in DoDI 5210.42, is in a position that has been pre-identified by Service regulation, or the command as having mission responsibilities of such potential sensitivity or urgency that normal notification standards would significantly risk mission accomplishment.

(5) Inpatient Care.

The Service member is admitted or discharged from any in-patient mental health or substance use disorder treatment facility, as these are considered critical points in treatment and support nationally recognized patient safety standards.

(6) Acute Medical Conditions Interfering with Duty.

The Service member is experiencing an acute mental health condition, a substance misuse induced condition, or is engaged in an acute medical treatment regimen that impairs the Service member's ability to perform assigned duties.

(7) Problematic Substance Use Treatment Program.

(a) The provider has determined the Service member requires treatment for a substance misuse disorder. Any Service member being treated for drug abuse, any Service member who is a danger to self, others, security, or mission, or any Service member in a higher-level (American Society of Addiction Medicine Level 2 or higher) treatment program for the treatment of a substance use disorder, should be formally enrolled in mandatory care.

(b) Service members that do not meet the criteria for mandatory enrolled substance misuse treatment may voluntarily receive behavioral health care. The provider will inform the Service member of the criteria for command notification and the recommendation for substance misuse treatment during the initial evaluation.

(8) Command-Directed Mental Health Evaluation.

The mental health services are obtained as a result of a command-directed mental health evaluation consistent with DoDI 6490.04.

(9) Other Special Circumstances.

The notification is based on other special circumstances in which proper execution of the military mission outweighs the interests served by avoiding notification, as determined on a case-by-case basis by a health care provider (or other authorized official of the medical treatment facility involved) at the O-6 or GS-15 civilian equivalent level or above, or a military medical treatment facility commanding officer at the O-6 level or above.

c. In making a disclosure pursuant to the circumstances described in Paragraphs 3.1.b.(1) through 3.1.b.(9), health care providers will provide the minimum amount of information necessary to satisfy the purpose of the disclosure. In general, this will consist of:

(1) The diagnosis; a description of the treatment prescribed or planned; impact on duty or mission; recommended duty restrictions; the prognosis; any applicable duty limitations; and implications for the safety of self or others.

(2) Ways the disclosing health care provider determines that command can support or assist the Service member's treatment.

3.2. COMMANDER DESIGNATION.

Commander notification pursuant to this instruction will be directly to the Service member's commander, or other person(s) specifically designated in writing by the commander for this purpose.

3.3. COMMANDERS.

a. The commander should aim to interact and cooperate with the provider in a manner that does not breach confidentiality as described in this instruction. This interaction should occur with the intent of building partnerships, enabling, and encouraging Service members to feel comfortable in obtaining care via self or medical referrals while furthering the successful accomplishment of the military mission.

b. When requested by Service members or providers, commanders are strongly encouraged to share with treating providers any information that they believe may be pertinent to the health and welfare of their Service members or mission accomplishment. In a case of command-directed mental health evaluations or self-initiated voluntary command referred mental health evaluation, commanders can request acknowledgement of care from providers for the purposes of conveying information, even if circumstances would not otherwise require this acknowledgement. Commanders will not receive additional information unless disclosure is authorized for one of the reasons listed in Paragraph 3.1.b.

3.4. REPORTS AND ASSESSMENTS.

a. Military Departments and the DHA will evaluate the effectiveness of, and compliance with this instruction, and recommend improvements to the Office of the ASD(HA) as requested, or at least every 2 years. The metrics established for providing these assessments and recommendations are outlined in Figure 1, and will be sent through the Office of the Deputy Assistant Secretary of Defense for Health Readiness Policy and Oversight to the ASD(HA).

b. The Office of the Deputy Assistant Secretary of Defense for Health Service Policy and Oversight will review submitted reports and metrics to evaluate the effectiveness of, and compliance with this instruction and provide recommendations for updating reporting requirements, as necessary.

c. Reports must follow the format shown in Figure 1.

Figure 1. Reporting Template.

[Component letterhead]

[month, day, year]

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS

SUBJECT: Report on Command Notification to Dispel Stigmas in Providing Mental Health Care to Service Members

1. DoD Component. [Army, Navy, Air Force, DHA].

2. Reporting Period. Calendar year(s) XXXX - XXXX (January 1 through December 31).

3. Policies and Guidelines. [Narrative summaries describing current practices and procedures, additional attachments enclosed as needed]

a. Policy and guidance references:

(1) DoD health care providers.

(2) Non-DoD health care providers.

(3) Commanders.

b. Description of practices and procedures:

(1) DoD health care providers.

(2) Non-DoD health care providers.

(3) Commanders.

4. Data Reporting. Assessment of a select sample size, which provides a 95 percent confidence level for the evaluation of provider documentation of command notification.

a. Provider documentation, indicating "when" notification was provided, and the criteria that resulted in the notification:

(1) Percent of records reviewed that documented date of notification.

(2) Percent of records reviewed that documented the criteria described under Paragraph 3.1.b. of DoD Instruction 6490.08, that resulted in notification to the commander.

(3) Percent of records reviewed that documented both the date of notification and the criteria that resulted in notification.

Figure 1. Reporting Template, Continued

5. Lessons Learned [As appropriate, narrative summaries describing benefits, challenges, and recommendation for consideration associated with current policy]

a. Lessons Learned:

b. Emerging Data:

c. Metrics Recommendations for Consideration:

d. Policy Recommendations for Consideration:

[Signature Block]

Attachment(s)

As stated

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GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
ASD(HA)	Assistant Secretary of Defense for Health Affairs
DHA	Defense Health Agency
DoDI	DoD instruction

G.2. DEFINITIONS.

These terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
exigent circumstances	As defined in Section 704 of Public Law 117-263, a circumstance in which, under the criteria set forth in Paragraph 3.1.b. the need to prevent serious harm to an individual or essential military function clearly outweighs the need for confidentiality of information obtained by a health care provider incident to mental health care services voluntarily sought by a member of the Military Services.

REFERENCES

Code of Federal Regulations, Title 45

DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008

DoD Instruction 1010.04, "Problematic Substance Use by DoD Personnel," February 20, 2014, as amended

DoD Instruction 5210.42, "DoD Nuclear Weapons Personnel Reliability Assurance," April 27, 2016, as amended

DoD Instruction 6400.06, "DoD Coordinated Community Response to Domestic Abuse Involving DoD Military and Certain Affiliated Personnel," December 15, 2021, as amended

DoD Instruction 6490.04, "Mental Health Evaluations of Members of the Military Services," March 4, 2013, as amended

DoD Manual 6025.18, "Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DoD Health Care Programs," March 13, 2019

Public Law 117-263, Section 704, "James M. Inhofe National Defense Authorization Act for Fiscal Year 2023," December 23, 2022