

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY MEDICAL COMMAND
2050 Worth Road
Fort Sam Houston, Texas 78234-6000

MEDCOM Supplement 1
to AR 40-66

16 June 2006

Medical Services

MEDICAL RECORD ADMINISTRATION AND HEALTH CARE DOCUMENTATION

Issue of further supplements to this regulation by subordinate commanders is prohibited without prior approval from HQ MEDCOM, ATTN: MCHO-CL-P.

AR 40-66, 22 May 2006, is supplemented as follows:

1. SUMMARY OF CHANGE. Add the following as the sixth bullet.
 - Provides instructions for the clinical use of electronic mail in provider-to-patient communications (para 2-9).
2. Page ii, Contents, Chapter 2, Confidentiality of PHI.

Add the following as the last entry under chapter 2: Clinical use of electronic mail in provider-to-patient communications • 2-9, page 10

3. Page vii, Contents, Appendixes. Add appendix D after appendix C as follows: Appendix D, MEDCOM Form 756-R (Authorization to Send and Receive Medical Information By Electronic Mail).
4. Page 10. Add the following paragraph:

2-9. Clinical use of electronic mail in provider-to-patient communications

a. Background.

(1) The health care provider's ability to adequately communicate diagnosis and treatment programs and to furnish appropriate health education information is essential in providing quality health care. Electronic mail (e-mail) is the transfer of electronic messages across communication networks and may include not only text-based information, but also multimedia formats, either embedded in the messages or attached as files. E-mail is now taking its place alongside the written and verbal (face-to-face

*This supplement supersedes MEDCOM Supplement 1 to AR 40-66, 11 May 2005.

and telephonic) communications that have traditionally been the primary mechanisms for communicating health care information.

(2) The remote nature of e-mail communication requires that guidelines be established in order to maintain medical privacy, protect information from nonauthorized access, and comply with the Privacy Act of 1974 as well as Health Insurance Portability and Accountability Act (HIPAA) security and privacy rules and regulations.

(3) The Military Health System (MHS), upon fielding its secure messaging system, plans to use the TRICARE On-Line portal as the platform for establishing all health-related e-mail communications between MHS providers and their patients. Unfortunately, this secure messaging feature will not be available in the foreseeable future. In the absence of an MHS-wide solution, this supplement provides interim guidance for the use of provider-patient e-mail communications. The policy contained herein only covers provider-patient communication; other e-mail communications have been addressed in separate policies.

b. Use of provider-patient e-mail.

(1) All providers will use clinical e-mail and military treatment facility (MTF) commanders will establish a mechanism for training providers in its use. Commanders will allocate time during the day for providers to respond to clinical e-mail.

(2) Patients or parents and legal guardians electing to use clinical e-mail for medically related communications will complete the MEDCOM Form 756-R¹ (Authorization to Send and Receive Medical Information By Electronic Mail) (appendix D). This form will also be used for minors who can consent for their own treatment under State law. The authorization will be completed by the patient and witnessed at the MTF in order to allow face-to-face authentication of the patient's/parent's or legal guardian's identity at the time of election. The user's identity will be established by presentation of his/her DOD identification card. The completed MEDCOM Form 756-R will be filed in the patient's medical record. No patient will be compelled to use e-mail communications. A patient may decide to opt out of the use of clinical e-mail at any time by informing the MTF.

(3) Providers will sign a statement of understanding regarding the MTF by-laws. These by-laws will contain or will be amended to contain provisions for the confidentiality and security acknowledgement for use of clinical electronic mail. The statement will be kept in the provider's activity file which is part of the provider credentials file. The statement will be renewed upon renewal of privileges or upon permanent change of station (PCS) to another MTF. Upon PCS, the provider credentials file goes to the gaining MTF and the provider activity file stays at the losing facility for historical purposes.

¹MEDCOM Form 756-R will be converted to a Department of the Army (DA) form if this policy is included in AR 40-66 at a future date.

c. E-mail categories. There are two different patient-to-provider categories of e-mail--

(1) Health consultation. Health consultation includes e-mail communications between a provider and patient in which health information, services, or advice are being provided. This category specifically includes prescription renewals. Health consultation e-mail communications will only be used when a patient-provider relationship has been previously established. The content of these communications will be documented in the patient's medical record. In general, health consultation e-mail is accountable as workload.

(2) Administrative. Administrative e-mail communications are for the purposes of discussing appointments, general clinic information, insurance, and billing questions. Administrative messages do not require documentation in the medical record but may be included at the provider's discretion. In general, administrative e-mail is not accountable as workload.

d. Prohibited uses of provider-patient e-mails. Provider-patient e-mails will not be used for--

(1) Emergency or time-sensitive communications.

(2) Provision of medical evaluation and treatment for which the standard of care would normally require the performance of physical examination of the patient (although advice on temporizing measures to be used until the patient can obtain an appropriate evaluation may be given).

(3) Release of protected information derived from quality assurance activities, as defined in 10 USC 1102 and AR 40-68.

(4) Personal uses, other than those related to medical or health care issues.

(5) Sensitive medical conditions or situations that require more rigorous protections of privacy, including HIV status, sexually transmitted diseases, abuse (spouse and child), chemical dependency, and worker's compensation claims. In the case of mental health information, the use of e-mail should not be prohibited, but both patient and providers should be aware that mental health information is involved and, where appropriate, take additional steps to ensure that privacy and security processes surround this information by using the telephone or face-to face communications.

(6) Marketing purposes.

(7) Forwarding patient-identifiable information to a third party, except as allowed by the HIPAA rule as outlined in DOD 6025.18-R, without the patient's express, documented permission.

e. Procedures for use of clinical e-mail.

(1) Authorized provider clinical e-mail systems. Providers will use Microsoft Outlook or Army Knowledge Online mail systems for all clinical e-mail communications with patients.

(2) Initiation of clinical e-mail. Providers may initiate clinical e-mail communications with patients or may respond to patients' e-mail inquiries. Providers must first ensure, however, that there is a completed MEDCOM Form 756-R for the use of clinical e-mail filed in the patient's medical record as recorded in the MTF's electronic listing (see para (3) below) of patients consenting to the use of e-mail. Online medical evaluations should occur only within the context of a previously established provider-patient relationship that includes a face-to-face encounter.

(3) MTF electronic listing of patients consenting to the use of e-mail medical correspondence. Each MTF will have a process to electronically document the receipt of a patient's signed consent form and the patient's designated e-mail address. MTF staff will maintain this list, and it will be accessible by all MTF providers to verify that a patient has consented to the use of e-mail for medical correspondence. Each MTF shall determine the best way to implement this electronic list at their facility. Example implementations include publishing a list of patients and their e-mail addresses to a restricted MTF Intranet web page or shared network folder or adding a comment to the patient's mini-registration in CHCS. The provider should be able to copy and paste the patient's e-mail address to avoid typing errors. There should be a central processing point for receiving the patient consent forms and maintaining the electronic listing, such as the patient administration division's correspondence section.

(4) Response times. All e-mail should be answered within a response time consistent with the MTF response time for telephone consultations.

(a) If an e-mail inquiry is deemed to be an emergency, the provider will immediately initiate attempts to contact the patient by telephone or in person using emergency response services if necessary.

(b) If a valid authorization for the use of clinical e-mail is not in the patient's medical record, the provider should send a reply to the patient stating that the inquiry cannot be answered by e-mail. The provider should then attempt to contact the patient by another means to answer the inquiry.

(5) Provider absences. If a provider is absent for more than 1 duty day (for example, for leave or TDY), that provider must use the 'out-of-office-assistant' function. The note should notify e-mail correspondents of the length of the absence during which he/she will not be able to respond to e-mail inquiries. A covering provider's e-mail address must be included in the out-of-office message.

(6) Warning banner. Each clinical e-mail message sent by a provider will include the following legend as part of the message:

This document may contain information covered under the Privacy Act, 5 USC 552(a), and/or the Health Insurance Portability and Accountability Act (PL 104-191) and its various implementing regulations and must be protected in accordance with those provisions. Healthcare information is personal and sensitive and must be treated accordingly. If this correspondence contains healthcare information, it is being provided to you after appropriate authorization from the patient or under circumstances that do not require patient authorization. You, the recipient, are obligated to maintain it in a safe, secure, and confidential manner. Redisclosure without additional patient consent or as permitted by law is prohibited. Unauthorized redisclosure or failure to maintain confidentiality subjects you to application of an appropriate sanction. If you have received this correspondence in error, please notify the sender at once and destroy any copies you have made.

(7) Patient information. The following information should be emphasized to the patient when he/she completes the consent form:

(a) E-mail should not be used for emergency or time sensitive communications.

(b) Expectations as to when a reply should be expected and instructions as to what to do if no reply is received (that is, if no response is received within MTF's defined response time, then contact (*name of MTF, at 1- (800) XXX-XXXX*)).

(c) Information on how to contact the provider/MTF in case of an emergency.

(d) E-mail may be included in the medical record.

(e) There are potential limitations of e-mail and times when system outages will cause e-mail to not be available.

(f) Patients should put the category of transaction in the subject line of the message for filtering (for example, appointment, prescription, medical advice, billing question).

(g) Patients should put their name, family member prefix, and last four of the sponsor's SSN in the body of the message (for example, John Doe/30/0858).

(h) Patients should acknowledge receiving a message when requested by a provider.

(i) Messages should be concise.

(j) When e-mail messages become too lengthy or the correspondence is prolonged, patients may be notified that they will need to make an appointment or call the clinic.

(k) Patients will be reminded when they do not adhere to the guidelines contained in this paragraph.

(l) Patients who repeatedly do not adhere to the guidelines may have the e-mail relationship terminated.

(8) Documentation of e-mail in the medical record. All health consultation (see para c above) e-mail messages will be documented in the patient's medical record. Administrative messages do not require documentation in the medical record but may be included at the provider's discretion. If CHCS-II is available at the site, messages must be documented in CHCS-II. If CHCS-II is not available, the messages should be documented in CHCS. Specific CHCS-II and CHCS documentation guidance follows.

(a) The following components of the e-mail thread must be included in the medical record documentation: (Note: E-mail thread as used below, and throughout this policy, is defined as the initial and subsequent messages that presents and answers the patient's questions.)

- 1 The date and time of each related message;
- 2 The patient's chief complaint/inquiry (if applicable);
- 3 Any additional information received from the patient to clarify his/her condition;
- 4 The provider's response including any medications (over-the-counter or prescription) that were prescribed, to include the date and time a prescription was ordered;
- 5 The date and time that the patient is to return for follow-up care;
- 6 If deemed necessary and requested by the provider, the patient acknowledgement of the response for messages that contain important medical advice; and
- 7 Healthcare providers should state, within the context of the consultation, that advice is based only upon information made available by the patient to the provider during, or prior to, the online consultation, including referral to the patient's chart when appropriate, and therefore may not be an adequate substitute for an office visit.

(b) CHCS-II documentation guidance. Documentation of the e-mail communication will be accomplished using a CHCS-II telephone consultation.

1 The provider will create a new CHCS-II telephone consultation on the day of the provider's first message to the patient. If additional correspondence is expected on the same medical issue, the telephone consultation should be left open until the

e-mail thread is complete. Additionally, if an acknowledgement of receipt is requested from the patient, the telephone consultation should remain open until the acknowledgement is received. In order to capture the time and date of the final message in the thread, the provider should open a reply to that last message and then copy the entire text of the e-mail string, along with the date and time data preceding each message in the string, and paste the copied text into the CHCS II telephone consult as noted in e(8)(c)2 below. The unsent reply can then be closed without being sent.

2 Once the e-mail communication is complete and the patient's acknowledgement of receipt of the provider's final message has been received (if requested), the text of the e-mail message and the text of any appropriate attachments will be copied into the open CHCS II telephone consultation in the 'add note' section. (Note: This must be done via the 'add note' function as the 'quick entry provider' note field will not accept pasted text. The 'note type' and 'note category' fields can be left blank.) As with CHCS, the Ambulatory Data System (ADS) required fields will be completed for a diagnosis and evaluation and management code, which is accomplished in the usual fashion with CHCS II documentation. The provider then signs the telephone consult digitally and the consultation is completed.

(c) CHCS documentation guidance. Documentation of the e-mail communication will be accomplished using a CHCS telephone consultation.

1 The provider will create a new CHCS telephone consultation on the day of the provider's first message to the patient. If additional correspondence is expected on the same medical issue, the telephone consultation should be left open until the e-mail thread is complete. Additionally, if an acknowledgement is requested from the patient, the telephone consultation should remain open until the acknowledgement is received.

2 Once the e-mail communication is complete and the patient's acknowledgement of receipt of the provider's final message has been received (if requested), the text of the e-mail message and the text of any appropriate attachments will be copied into the open CHCS telephone consultation. In order to capture the time and date of the final message in the thread, the provider should open a reply to that last message and then copy the entire text of the e-mail string, along with the date and time data preceding each message in the string, and paste the copied text into the CHCS telephone consult. The unsent reply can then be closed without being sent.

3 The provider will then close the CHCS telephone consultation that will be printed for inclusion in the patient's medical record.

(9) Encounter coding. Each completed health consultation e-mail communication will be coded in the ADS.

(a) A new ADS record will be opened upon closure of the CHCS telephone consultation documenting the e-mail communication.

(b) Health consultation e-mail messages count for workload credit and qualify for reimbursement when the provider performs any of the following actions: provides substantive medical advice, revises a treatment plan, prescribes or revises medications, recommends additional testing, provides self care/educational information to the patient, provides new advice or new intervention for the treatment of a new or chronic medical condition, provides lab interpretation with a substantive explanation, or provides extensive patient counseling.

(c) The encounter will be coded as a telephone consultation, using the appropriate evaluation and management code until this code is available for e-mail in CHCS. Also code the appropriate ICD-9-CM codes. The online medical evaluation is an online evaluation and management service, per encounter, provided by a provider using the Internet or similar electronic communications network, in response to a patient's request. The patient must be an established patient.

(10) Mailing lists. Providers may develop e-mail mailing lists (consisting of patients who have consented to use clinical e-mail) for use in distributing targeted and general health care or clinic information to these patients. Care should be taken to ensure the mailing lists are not composed in such a way as to reveal confidential information about the patients listed therein (for example, a mailing list of patients with hypertension or diabetes mellitus).

(a) Patients' e-mail addresses must not be in the 'to:' or 'cc:' address block. Only put patient e-mail addresses in the blind courtesy copy ('bcc:') address block to ensure their privacy from other recipients.

(b) No HIPAA-protected, individually identifiable health information will be transmitted in a message addressed to a mailing list of patients.

f. Disposition of e-mail messages and files. Upon completion of the e-mail encounter or consultation, care should be taken with messages that contain a patient's protected health information (PHI). Messages containing PHI, including replies in 'sent items,' should be deleted from a provider's e-mail store on the mail server by highlighting and deleting the messages in the inbox, folders, and sent items and personal folders on the provider's workstation once the information has been pasted into a CHCS telephone consult or added to the patient's medical record, if appropriate. This is to ensure that the PHI is not inadvertently disclosed.

g. Facility guidelines for e-mail. Although the policy contained in this supplement provides general guidelines for the use of provider-patient e-mail communications, each facility or activity must establish standard local processes and procedures to mitigate the potential risk of inappropriate disclosure of PHI. The facility e-mail guidelines should include, but are not limited to, the following:

(1) Process for granting a user access to e-mail including the procedures for–

- (a) Establishing a user's positive identification.
 - (b) Obtaining MEDCOM Form 756-R from the patient.
 - (c) Obtaining an acknowledgement of confidentiality and security requirements from a provider concerning their use of electronic messaging.
- (2) Response times for e-mail messages.
 - (3) Provider training on the use of electronic messaging.
 - (4) Description of the triage process for handling and managing e-mails from patients. This shall include the business rules being applied at the facility for e-mail forwarding from one provider to another (referral or consult), the election of a surrogate by a provider when the provider is not available, and the guidelines for forwarding notification.
 - (5) Process to electronically document the receipt of a patient's signed consent form and the patient's designated e-mail address (see para e(3) above).
 - (6) Procedures for managing provider and patient mailing lists (see para e(3) and e(10) above).
 - (7) Procedures for the use of electronic communications, including e-mail, involving quality assurance. These procedures must be in accordance with USC Title 10, Section 1102 and AR 40-68.
 - (8) Procedure for making e-mail related procedures and guidelines for e-mail communication readily accessible for reference to users (for example, placing information on the facility's website).
 - (9) Establishing e-mail accounts for minors and documentation of facility compliance with State law.
 - (10) All MTFs shall add the following instructions to their MTF bylaws:

Provider Guidelines for Use of Patient-Provider Electronic Mail (E-mail):

- Providers will adhere to all guidelines for the use of patient-provider e-mail specified in MEDCOM Supplement 1 to AR 40-66.
- E-mail communication can only be used with patients who have voluntarily and in writing elected to receive health information in this manner.
- Health information is protected under HIPAA and the Privacy Act, and therefore providers are obligated to follow the law and implementing regulations and policy to ensure that all electronic health information in whatever form is protected.
- E-mail will not be used for emergent medical situations.
- E-mail communications that contain health consultations will be captured and recorded in the patient's medical record using the method described in MEDCOM Supplement 1 to AR 40-66. Health consultations include communication between a provider and patient or between providers in which health information, services, or advice are being provided. This category specifically includes prescription renewals.
- After the episode is complete and the care is documented in the patient's official medical record, providers will delete all messages from their e-mail accounts and computers that contain a patient's PHI.

5. Page 50, Figure 5-1, Forms and documents of the HREC (treatment) using DA Form 3444-series jackets. Add the following before DD Form 2005²:
MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

6. Page 57, Figure 5-2, Forms and documents of the HREC using DA Form 8005-series jackets. Add the following before DD Form 2005²:
MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

7. Page 59, Figure 5-3, Forms and documents of the HREC dental record. Add the following before DD Form 2005¹:
MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

8. Page 70, Figure 6-1, Forms and documents of the OTR using DA Form 3444-series jackets. Add the following before DD Form 2005²:
MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

9. Page 76, Figure 6-2, Forms and documents of the OTR using DA Form 8005-series jackets. Add the following before DD Form 2005²:

MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

10. Page 78, Figure 6-3, Forms and documents of the nonmilitary dental record.

Add the following before DD Form 2005¹:

MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

11. Page 86, Figure 7-1, Forms and documents of the CEMR using DA Form 3444-series jackets or SF 66D folders. Add the following before DD Form 2005²:

MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

12. Page 90, Figure 8-1, Forms and documents of the ASAP-OMR. Add the following before DA Form 8004:

MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

13. Page 119, Figure 9-1, Forms and documents of the ITR. Add the following before DD Form 2005:

MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

14. Page 124, Figure 10-1, Forms and documents of the EAR. Add the following before DD Form 2005:

MEDCOM Form 756-R

Authorization to Send and Receive Medical Information by Electronic Mail. (See para 2-9.)

15. Page 183, Appendix C. After appendix C, add appendix D entitled MEDCOM Form 756-R (Authorization to Send and Receive Medical Information by Electronic Mail).

Appendix D

MEDCOM Form 756-R
(Authorization to Send and Receive Medical Information by Electronic Mail)

(Form is contained on next page.)

MEDICAL RECORD - CONSENT FORM
Authorization To Send And Receive Medical Information By Electronic Mail

For use of this form see, MEDCOM Supplement 1 to AR 40-66

SECTION I - PATIENT DATA

1. NAME (Last, First, Middle Initial)	2. DATE OF BIRTH (YYYYMMDD)	3. SOCIAL SECURITY NUMBER
4. E-MAIL ADDRESS		5. TELEPHONE NUMBER

SECTION II - CONDITIONS FOR USE OF E-MAIL

Health care providers cannot guarantee but will use reasonable means to maintain security and confidentiality of electronic mail (E-mail) information sent and received. You must acknowledge and consent to the following conditions:

- E-mail is not appropriate for urgent or emergency situations. Healthcare providers will respond within _____. Contact the clinic telephonically if you have not received a response after _____.
- E-mail must be concise. You should schedule an appointment if the issue is complex or sensitive precluding discussion by E-mail.
- E-mail should not be used for communications regarding sensitive medical conditions such as sexually transmitted diseases. HIV/AIDS, spouse or child abuse, chemical dependency, etc.
- Medical or dental treatment facility staff may receive and read your messages.
- E-mails related to health consultation will be copied, pasted, and filed.

SECTION III - RISKS OF USING E-MAIL

Transmitting information by E-mail has risks that you should consider these include, but are not limited to the following risks:

- E-mails can be intercepted, altered, forwarded. or used without authorization or detection.
- E-mails can be circulated, forwarded and stored in paper and electronic files.
- E-mail senders can easily type in the wrong E-mail address.
- E-mails may be lost due to technical failure during composition, transmission, and/or storage.

SECTION IV - PATIENT GUIDELINES

To communicate by E-mail, the patient shall:

- Place the category (topic) of the communication in the subject line of the E-mail (for example, appointment, prescription, medical advice, etc.)
- Include the patient's name, telephone number, family member prefix, and the last 4 numbers of the sponsor's social security number (for example: 30/0858) in the body of the E-mail.
- Acknowledge receipt of the E-mail when requested to do so by a health care provider.
- Inform the medical or dental treatment facility of changes in E-mail address by completing a new consent form.
- Notify the health care provider of any types of information considered by the patient to be inappropriate for E-mail.
- Take precautions to preserve the confidentiality of E-mail.

SECTION V - PATIENT ACKNOWLEDGEMENT AND AGREEMENT

I have read and fully understand the information in this authorization form. I consent to the E-mail conditions and agree to abide by the guidelines listed above. I further understand that this E-mail relationship may be terminated if I repeatedly fail to adhere to these guidelines.

I understand and accept the risks associated with the use of unsecure E-mail communications. I further understand that, as with all means of electronic communication, there may be instances beyond the control of the family and the health care provider where information may be lost or inadvertently exposed, such as during technical failures, acts of God, acts of war, and so forth.

I understand that I have the right to revoke this authorization, in writing, at any time.

By signing this form I acknowledge the privacy risks associated with using E-mail and authorize health care providers to communicate with me or any minor dependent/ward for purpose of medical advice, education, and treatment.

(Date)	SIGNATURE of Patient or Patient/Guardian	RELATIONSHIP (if other than patient)	
PATIENT IDENTIFICATION <i>(For typed or written entries note: Name-last, first, middle initial; SSAN; hospital or medical facility)</i>	Patient's Name		Sex
	Year of Birth	Relationship to Sponsor	Component/Status
	Department/Service	Sponsor's Name	
	Rank/Grade	FMP-SSAN	
	Organization		

The proponent of this publication is the Office of the Assistant Chief of Staff for Health Policy and Services. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to Commander, U.S. Army Medical Command, ATTN: MCHO-CL-P, 2050 Worth Road, Fort Sam Houston, TX 78234-6010.

FOR THE COMMANDER:



WILLIAM H. THRESHER
Chief of Staff

VASEAL M. LEWIS
Colonel, MS
Assistant Chief of Staff for
Information Management

DISTRIBUTION:

This publication is available in electronic media only and is intended for MEDCOM distribution As (4) 5 ea, (6) 1 ea, (10) 20 ea, (25) 5 ea, (26) 2 ea; Bs (1 and 2) 5 ea; Cs (1 thru 11) 1 ea; Ds (1 thru 6) 10 ea, (7 thru 39) 5 ea.

SPECIAL DISTRIBUTION:

MCHC (Stockroom) (1 cy)
MCHS-AS (Forms Mgr) (1 cy)
MCHS-AS (Editor) (2 cy)