

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY MEDICAL COMMAND
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MEDCOM Regulation
No. 40-38

21 September 2011

Medical Services
COMMAND-DIRECTED BEHAVIORAL HEALTH EVALUATIONS

Supplementation of this regulation and establishment of forms other than U.S. Army Medical Command (MEDCOM) forms are prohibited without prior approval from Headquarters, MEDCOM, ATTN: DASG-HSZ.

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*This regulation supersedes MEDCOM Regulation 40-38, 1 June 1999.

1. History. This issue publishes a major revision of this regulation.

2. Purpose

a. Function. In accordance with the references cited in appendix A, establish MEDCOM policy, assign responsibilities, and prescribe procedures for the referral, evaluation, treatment, and administrative management of Service members who may require behavioral health evaluations, psychiatric hospitalizations, and/or related administrative actions.

b. Scope. This regulation incorporates the requirements of Department of Defense Directive (DODD) 6490.1 and Department of Defense Instruction (DODI) 6490.4 and pertains to behavioral health evaluations directed by a Service member's commander as an exercise of the commander's discretionary authority. Evaluations not covered by these procedures include—

(1) Voluntary self-referrals.

(2) Criminal responsibility and competency inquiries conducted under Rule for Court-Martial 706 of the Manual for Courts-Martial.

(3) Interviews conducted according to the Family Advocacy Program.

(4) Referrals to the Army Substance Abuse Program (see AR 600-85).

(5) Referrals for evaluations expressly required by regulation, without any discretion by the Service member's commander, such as enlisted administrative separations under AR 635-200 and AR 135-178.

(6) Security clearances/nuclear surety program referrals pursuant to AR 380-67.

(7) Diagnostic referrals from other healthcare providers not part of the Service member's chain of command when the Service member consents to the evaluation.

c. Objective. Implementation of this regulation will inform healthcare providers and other personnel of the—

(1) Safeguards that protect the rights of Service members undergoing behavioral health evaluations.

(2) Proper mechanism for reporting potentially inappropriate requests for behavioral health evaluations.

(3) Required use of Department of Army (DA) Form 3822 (Report of Mental Status Evaluation) instead of obsolete MEDCOM Form 699-R (Mental Status Evaluation).

3. References. References are listed in appendix A.

4. Explanation of abbreviations and terms. Abbreviations and terms are explained in the glossary.

5. Applicability. This regulation applies to all MEDCOM personnel.

6. Responsibilities

a. The Commander, MEDCOM, will ensure that subordinate commanders are aware of this regulation and the requirements for command-directed behavioral health evaluations.

b. Commanders, regional medical commands (RMCs) will—

(1) Within their region of responsibility, ensure integration of appropriate quality management measures (as required by this regulation, DODD 6490.1, and DODI 6404.4) into each military treatment facility's (MTF's) existing performance improvement structure. This includes review of providers conducting command-directed behavioral health evaluations.

(2) Provide oversight, operational guidance, and assistance regarding behavioral health evaluations of Service members by ensuring appropriate training of healthcare providers.

(3) Ensure the presence of a regional support plan (for example, memorandums of agreement with other Services, the Department of Veterans Affairs, and so forth) for providing behavioral health evaluations to Service members at locations where there are no qualified behavioral healthcare providers to conduct evaluations.

c. MTF commanders will—

(1) Ensure overall compliance with the provisions of this regulation and exercise oversight.

(2) Ensure that authorized behavioral healthcare providers are fully trained to conduct command-directed behavioral health evaluations consistent with Department of Defense (DODD 6490.1 and DODI 6490.4) and MEDCOM policy.

(3) Ensure that behavioral healthcare providers receive credentials review and privileging upon assignment.

(4) Ensure that safeguards and performance review processes are in place in accordance with DODD 6490.1.

(5) Ensure that in accordance with DODD 6490.1, training is provided to all Service members and installation privileged healthcare providers on the recognition of Service members who may require command-directed behavioral health evaluations for imminent

dangerousness and familiarity with the safeguards that protect their rights as well as the process for reporting potential violations.

(6) Establish written procedures for referring Service members for behavioral health evaluations according to references in appendix A.

d. Behavioral healthcare providers will—

(1) Familiarize themselves with the provisions of this regulation and related references.

(2) Obtain necessary training according to the requirements of DODD 6490.1.

(3) Request clinical privileges from the MTF to conduct command-directed behavioral health evaluations by adding “Conduct Command-Directed Behavioral Health Evaluations” on their discipline-specific DA Form 5440 (Delineation of Privileges) (reference AR 40-68). Appendix B provides criteria required for this privilege.

(4) Ensure the referring commander has complied with the consultation, notice, and formal requirements for a non-emergency behavioral health evaluation before proceeding with a command-directed behavioral health evaluation.

(5) Use MEDCOM Overprint 44 (Limits of Confidentiality and Informed Consent of Care) located on Army Knowledge Online at www.us.army.mil and Web AEFSS under the “Forms” icon to inform the Service member of the reasons, circumstances, and possible outcome(s) of the evaluation and that the results of this evaluation are not confidential.

(6) Accomplish all of the notification requirements to command as required by DODI 6490.4 using DA Form 3822 located on Army Knowledge Online at www.us.army.mil and Web AEFSS under the “Forms” icon.

(7) Consider whether or not the Service member has a condition that is likely to impair his/her judgment or reliability to protect classified information. If the Service member is determined to have impaired judgment or reliability to protect classified information, then the appropriate block will be selected in Section III of the DA Form 3822, and details will be recorded in the “Remarks” section on page 3. Additionally, providers will remind the Service member’s commander of their requirement to provide prompt notification to the Army Central Clearance Facility according to AR 380-67.

(8) Assess the circumstances surrounding the request for evaluation to ensure that reprisal was not a factor.

(9) Report evidence indicating or suggesting an inappropriate request for evaluation. Reporting will be through the behavioral healthcare provider's command channels to the referring commander's superior.

(10) Accomplish the review process for involuntary psychiatric hospitalization required by DODI 6490.4. (Such review is conducted by an impartial, disinterested privileged healthcare provider.)

e. Inspectors general (IGs)—

(1) May conduct or oversee inquiries/investigations of allegations that a Service member was referred for a behavioral health evaluation in violation of DODD 6490.1.

(2) Will report findings of inquiries/investigations to appropriate commanders in accordance with AR 20-1.

7. Policy. It is MEDCOM policy that—

a. Quality and comprehensive behavioral health services will be provided Service members, consistent with their rights, by qualified behavioral healthcare providers as defined in the glossary of this regulation.

b. Command-directed behavioral health evaluations must be completed by authorized behavioral healthcare providers as defined by DODD 6490.1. DODI 6490.4 identifies these authorized providers with clinical practice privileges as Department of Defense (DOD) psychiatrists, doctoral-level clinical psychologists, or doctoral-level clinical social workers.

c. To conduct command-directed behavioral health evaluations, all DOD doctoral-level behavioral healthcare providers must meet privileging criteria and request clinical privileges from the MTF by adding “Conduct Command-Directed Behavioral Health Evaluations” on their discipline-specific DA privileging form (DA Form 5440 series, see AR 40-68).

d. For cases where the diagnostic provider does not meet authorization requirements (to include residents, master’s-level social workers, or other non-authorized providers), the non-authorized provider must have proper clinical supervision by a fully licensed and privileged provider meeting the authorization requirements of DODD 6490.1.

e. Commanders will consult with the appropriate behavioral healthcare providers before referring a Service member for a non-emergent behavioral health evaluation that is not exempted by paragraph 2*b* of this regulation.

f. DA Form 3822 will be used by behavioral healthcare providers to obtain a comprehensive cross-sectional description of a patient’s behavioral health status which is an important part of the clinical assessment process in psychiatric practice. It is a structured way of observing and describing a patient’s current state of mind, under the domains of appearance, attitude, behavioral mood and affect, speech, thought process, thought content, perception, cognition, insight, and judgment.

(1) DA Form 3822 is the only authorized form for use by MTF behavioral healthcare providers when documenting a report of behavioral or mental status. Alternative substitution is not authorized.

(2) DA Form 3822 is the only acceptable form in compliance with command-directed evaluations, administrative separation requirements, mandatory school evaluations, and when communicating behavioral health concerns to Army leaders.

g. The standardized MEDCOM Overprint 44 is the only consent form for use by MTF behavioral healthcare providers when evaluating and/or treating all outpatients suspected of or having a behavioral health diagnosis. Alternative substitution is not authorized, but patients enrolled in the Army Substance Abuse Program and receiving behavioral health treatment must also sign DA Form 8001 (Limits of Confidentiality) as prescribed by AR 40-66.

(1) The standardized MEDCOM Overprint 44 is used to briefly explain the meaning of confidentiality and conditions under which disclosure of patient information to third parties must occur. Providers will review with the patient and explain the content of the form before any evaluation, screening, or treatment is conducted with one exception as noted in (2), below.

(2) In the event that a behavioral healthcare provider determines that a patient is not able to understand the limits of confidentiality, or if a delay in the patient's evaluation or treatment would not be in the patient's best interest, administration of MEDCOM Overprint 44 may be delayed. When this occurs, the behavioral healthcare provider will document in the patient's record the reasons for the delay. When a delay occurs, MEDCOM Overprint 44 must be signed as soon as a behavioral healthcare provider indicates in writing that the patient is able to comprehend the contents of the form.

h. A Service member has certain rights when referred for a non-emergent behavioral health evaluation and additional rights when admitted to a treatment facility for an emergency or involuntary behavioral health evaluation. Appendix C is a sample patient rights orientation worksheet. Appendix D is a sample consent form for psychiatric hospitalization. Both forms may be used as a guide or reproduced.

i. No person will refer a Service member for a behavioral health evaluation as a reprisal for making or preparing a lawful communication to—

- (1) A member of Congress;
- (2) Any appropriate authority in the Service member's chain of command;
- (3) An IG or;
- (4) A member of a DOD audit, inspection, investigation, or law enforcement organization.

j. No person will restrict a Service member from lawfully communicating with an IG, attorney, member of Congress, or others about the Service member's referral for a behavioral health evaluation.

k. Any violation of the above by any person subject to the Uniform Code of Military Justice (UCMJ) is punishable as a violation of Article 92, UCMJ; violations by civilian employees are punishable under regulations governing civilian disciplinary or adverse actions.

8. Procedures

a. Non-emergency referrals.

(1) Commanding officers suspecting a behavioral health evaluation may be indicated will contact the appropriate MTF and speak directly with a behavioral healthcare provider to request a command-directed behavioral health evaluation. The behavioral healthcare provider will clarify the request, urgency of the referral, and schedule an appointment. Appendix E is a sample memorandum from the commanding officer to the MTF/clinic commander requesting a non-emergency referral.

(2) In accordance with DODI 6490.4, the commanding officer will ensure that the Service member is provided a written memorandum (see sample at appendix F) at least two business days before a routine (non-emergency) referral for a behavioral health evaluation. The memorandum from the commanding officer should include at a minimum, the name and rank of the Service member and advise the Service member of his/her rights; the reasons for the referral; the name of the behavioral healthcare provider(s) with whom the commanding officer consulted; and the names and telephone numbers of judge advocates, DOD attorneys, and/or IGs who may advise and assist the Service member. The memorandum should also state the date, time, and place of the behavioral health evaluation; include the name and rank of the behavioral healthcare provider who will conduct the evaluation; and contain the name and signature of the commanding officer. The Service member will acknowledge that he/she has been advised of the reasons for a behavioral health evaluation referral and his/her rights by signing the memorandum. If the Service member refuses or declines, the commanding officer will so state on the memorandum and the reasons the Service member gave for not signing the memorandum.

(3) In accordance with DODI 6490.4, enclosure 4, the Service member--except in emergencies--has at least two business days before the scheduled behavioral health evaluation to meet with an attorney, IG, chaplain, or other appropriate party.

(4) Non-emergency command-directed behavioral health evaluations must be completed by authorized behavioral healthcare providers as defined by DODD 6490.1. For cases where the diagnostic provider does not meet authorization requirements--to include residents, master's-level social workers, or other non-authorized providers--the non-authorized provider

must have proper clinical supervision by a fully licensed and privileged provider meeting the authorization requirements of DODD 6490.1.

(5) The reported findings and treatment/disposition recommendations of this behavioral health evaluation remain the responsibility of the identified behavioral healthcare provider. DA Form 3822 will be used as prescribed by AR 40-66 and paragraph 7f of this regulation.

(6) If the Service member is initially referred for a non-emergency command-directed behavioral health evaluation, and the behavioral healthcare provider believes the Service member's situation constitutes an emergency or appears potentially harmful to his/her well-being, and the behavioral healthcare provider judges that it is not in the best interest of the Service member to delay the behavioral health evaluation for two business days, within 24 hours the behavioral healthcare provider will communicate to the commander the reasons in writing as part of the request for the behavioral health evaluation.

b. Emergency referrals.

(1) A commander will refer a Service member for an emergency behavioral health evaluation as soon as is practicable whenever a Service member indicates an intent to cause serious injury to himself/herself or others, and the commander believes that the Service member may be suffering from a behavioral health related disorder.

(2) Prior to transporting a Service member for an emergency evaluation, or shortly thereafter if the time and nature of the emergency does not permit, the commanding officer will consult directly with a behavioral healthcare provider (or other healthcare provider if a behavioral healthcare provider is not available) at the MTF. The purpose of this consult is to communicate the observations and circumstances which led the commander to believe that the Service member's behavior constituted an emergency. The commander will then forward to the behavioral healthcare provider consulted, a memorandum documenting the information discussed.

(3) Emergency command-directed behavioral health evaluations must be completed by authorized behavioral healthcare providers as defined by DODD 6490.1. For cases where the diagnostic provider does not meet authorization requirements--to include residents, master's-level social workers, or other non-authorized providers--the non-authorized provider must have proper clinical supervision by a fully licensed and privileged provider meeting the authorization requirements of DODD 6490.1.

(4) The reported findings and treatment/disposition recommendations of this behavioral health evaluation remain the responsibility of the identified behavioral healthcare provider.

c. Admissions.

(1) General information.

(a) In accordance with DODI 6490.4, the decision to admit a Service member for an inpatient behavioral health evaluation or treatment rests solely with a behavioral healthcare provider who has approved hospital admitting privileges.

(b) In cases of deployed units (or isolated geographic locations where no behavioral healthcare providers are available), a physician, if available, or the senior privileged non-physician provider present, will take actions and/or make recommendations to the Service member's commanding officer to protect the Service member's safety and that of the Service member's unit and/or potential victims, until such an evaluation can be conducted.

(c) A Service member will be admitted to a psychiatric unit (or medical unit if a psychiatric unit is not available) for inpatient evaluation or treatment if clinically indicated. The final decision to admit a Service member rests with a behavioral healthcare provider granted hospital admitting privileges. If a behavioral healthcare provider is not available, the member may be admitted by any healthcare provider with admitting privileges.

(d) Any Service member who has been voluntarily or involuntarily admitted to an inpatient unit and for whom dangerousness was an issue, will, before discharge, receive a thorough evaluation and mental status examination to ensure that he/she is not imminently dangerous.

(2) Voluntary admission. Voluntary hospital admission is appropriate if a provider, privileged to admit psychiatric patients, determines that admission is clinically indicated, and the Service member who voluntarily consents has the capacity to make an informed decision about treatment and hospitalization.

(3) Involuntary admission.

(a) An involuntary hospital admission is appropriate only when a provider, privileged to admit psychiatric patients, makes a clinical judgment that the Service member has a severe mental disorder and poses a danger to himself/herself and/or others. The provider must determine that the evaluation/treatment cannot reasonably be conducted at a less restrictive level of care or less intensive treatment would result in inadequate care. Hospitalization is appropriate only when consistent with the least restrictive alternative principle under the American Psychiatric Association's guidelines on this subject. Once admitted, the Service member will be evaluated by the attending privileged psychiatrist or another privileged physician if a psychiatrist is not available, within 24 hours after admission to determine if the Service member should be discharged from the hospital.

(b) Continued involuntary psychiatric hospitalization beyond an initial period not to exceed 72 hours is appropriate only when a provider makes a clinical judgment that all of the following apply:

1. The Service member is suffering from a serious mental disorder.

2. The Service member is at continued risk for imminently dangerous behavior.

3. The Service member refuses continued inpatient treatment or lacks the mental capacity to make an informed decision about continued inpatient treatment.

(c) The provider conducting the review in (b), above, must be an impartial, disinterested, privileged psychiatrist (or other medical officer if a psychiatrist is not available) who holds the grade of O-4 or above (or the civilian equivalent); is not in the Service member's chain of command; and is appointed in writing by the MTF commander for this purpose.

(d) Appendix G is a sample memorandum for use by the behavioral healthcare provider in notifying the Service member of continued involuntary hospitalization.

(e) MTFs which do not have inpatient psychiatric units and, therefore, use local civilian hospital facilities to provide inpatient psychiatric hospitalization for Service members on their installation must ensure that the appropriate contractual agreements are in place to support the requirements specified by this regulation, DODD 6490.1, and DODI 6490.4.

d. Return of Service member to command. When a behavioral healthcare provider returns a Service member to his/her command, either following an outpatient evaluation or upon discharge from inpatient status for which dangerousness was an issue, the provider must make written recommendations to the Service member's commander addressing, as a minimum, the following three issues:

(1) Proposed treatments. Treatments will be based upon the potential for therapeutic benefit as determined by the behavioral healthcare provider. Serial clinical assessments and mental status examinations will be performed to assess the Service member's ongoing risk of dangerousness. These evaluations should continue until the Service member is judged to be psychologically stable and no longer at significant risk of becoming imminently dangerous.

(2) Precautions. Recommendations for precautions will be based on the authorized behavioral healthcare provider's clinical judgment. Precautions must relate to the need for reducing or eliminating the Service member's ability to cause injury to himself/herself or others or for avoiding any events that might lead to such injury. Recommendations for precautions will be considered especially in cases of Service members who have demonstrated the potential for dangerous or violent behavior and may include, but are not limited to, an order to move into the barracks for a given period or orders to avoid the use of alcohol, to not handle firearms or other weapons, to not go to specified places, or to not contact a potential victim or victims.

(3) Fitness and suitability for continued service. The behavioral healthcare provider will recommend to the Service member's commander one of the following: return of the Service member to duty or referral of the Service member for expeditious administrative separation.

(a) Per DODI 1332.38, Soldiers are referred to the Physical Disability Evaluation System if they are unable to meet medical retention standards after attaining Optimal Medical

Treatment Benefit. A medical evaluation board report will be forwarded to the physical evaluation board for determination of fitness for continued military service if the Service member is clinically determined to not meet retention standards as defined in DODD 1332.18 based upon a Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR), Axis I or Axis III medical condition. See AR 40-400 for guidance on medical evaluation board procedures.

(b) A summary of the behavioral health evaluation, clinical findings, precautions taken by the provider, verbal recommendations made by the Service member's commanding officer, and current recommendations to include medical advice for expeditious administrative separation will be documented on DA Form 3822 and forwarded to the Service member's commander within one business day after the evaluation is completed under the following conditions: the Service member is clinically judged to be imminently or potentially dangerous, clinically determined to be unsuitable for continued service based upon a DSM IV-TR Axis II diagnosis of personality disorder, or other conditions which render the Service member unsuitable for service as defined in AR 635-200, chapter 5-17. These conditions are sufficiently severe so as to preclude satisfactory performance of duty.

e. Threatened violence. In any case in which a Service member has communicated to a privileged healthcare provider an explicit threat to kill or seriously injure a clearly identified or reasonably identifiable person or to destroy property under circumstances likely to lead to serious bodily injury or death, and the Service member has the apparent intent and ability to carry out the threat, the responsible healthcare provider will make a good faith effort to take precautions against the threat. Such precautions may include, but are not limited to, notifying the Service member's commander, notifying military and/or civilian law enforcement authorities, notifying a potential victim or victims, and notifying and providing recommendations to commanders regarding precautions or clinical treatments. The provider will inform the Service member and document in the medical record that these precautions have been taken.

f. Separation from military service. Whenever administrative recommendations are provided by a behavioral healthcare provider to a Service member's commander that the Service member be separated from military service due to both a personality disorder and a pattern of potentially dangerous behavior (that is, more than one episode), that recommendation will be co-signed by the behavioral healthcare provider's commanding officer. If the Service member's commanding officer, in turn, declines to follow the recommendation(s) of the MTF's commanding officer, the Service member's commanding officer is required to forward a memorandum to his/her commanding officer within two business days explaining the decision to retain the Service member against medical advice.

g. Office of The Surgeon General (OTSG) endorsement requirements for administrative separations. In accordance with AR 635-200, the OTSG Behavioral Health Division must

review and endorse all of the following recommendations for administrative separation prior to Soldiers being processed for discharge:

(1) All chapter 5-13 recommendations (personality disorders). This category is used only when the Soldier with a diagnosis of personality disorder has less than 24 months of active duty (AD) service;

(2) All chapter 5-17 recommendations (other designated physical and mental condition). This category is used when Soldiers with 24 months or more of AD service have a diagnosis of personality disorder. This category is also used for Soldiers who have been deployed to an area designated as an imminent danger pay area. The diagnosis of personality disorder must be corroborated by the MTF's chief of behavioral health (or an equivalent official).

h. Administrative separations not requiring OTSG endorsement. The following recommendations for administrative separation currently do not require OTSG Behavioral Health Division review and endorsement: Those chapter 5-17 recommendations (other designated physical or mental conditions) not related to personality disorder for Soldiers who have NOT been deployed to an imminent danger pay area.

9. Issues not addressed. Specific issues concerning the mechanism of initiating a command-directed behavioral health referral not outlined in this regulation should be addressed to the local MTF, RMC, or DASG-HSZ for further guidance.

Appendix A
References

Section I
Required Publications

This section contains no entries.

Section II
Related Publications

AR 15-6

Procedures for Investigating Officers and Boards of Officers

AR 20-1

Inspector General Activities and Procedures

AR 40-66

Medical Record Administration and Health Care Documentation

AR 40-68

Clinical Quality Management

AR 40-400

Patient Administration

AR 135-178

Enlisted Administrative Separations

AR 380-67

The Department of the Army Personnel Security Program

AR 600-85

The Army Substance Abuse Program

AR 635-200

Active Duty Enlisted Administrative Separations

Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Revised

(This publication is available from the American Psychiatric Press, Inc., 1400 K Street, N.W., Suite 1101, Washington, DC 20005.)

DODD 1332.18

Separation or Retirement for Physical Disability

*MEDCOM Reg 40-38

DODD 6490.1

Mental Health Evaluations of Members of the Armed Forces

DODD 7050.06

Military Whistleblower Protection

DODI 6490.4

Requirements for Mental Health Evaluations of Members of the Armed Forces

FM 6-22.5

Combat and Operational Stress Control Manual for Leaders and Soldiers

Manual for Courts-Martial (2008 Edition)

(Available on the APD Web site: <http://www.apd.army.mil.>)

Section III

Prescribed Forms

MEDCOM Overprint 44

Limits of Confidentiality and Informed Consent of Care (BH Clinics)

Section IV

Referenced Forms

DA Form 3822

Report of Mental Status Evaluation

DA Form 5440

Delineation of Privileges

DA Form 8001

Limits of Confidentiality

Appendix B

Privileging Criteria: Behavioral Healthcare Provider to Conduct Command-Directed Behavioral Health Evaluations

A qualified behavioral healthcare provider must possess all criteria listed below before being granted clinical privileges to conduct command-directed behavioral health evaluations.

B-1. Licensure. Possess a current, valid, and unrestricted State license for clinical practice.

B-2. Knowledge

a. Clinical interviewing and psychosocial assessments.

b. Model for assessment and management of dangerousness.

c. Dynamics of the different types of dangerous behavior (that is, suicidal ideation and gestures, homicidal ideation and gestures, child abuse and neglect, spouse abuse, sexual assault, proclivity to hate crimes, impulsive and high risk behaviors, drug and alcohol abuse, stress disorders, alienation, paranoia, and so forth).

d. Psychopathology/abnormal psychology.

e. Therapeutic communication.

f. Professional and organizational policies and procedures governing clinical practice (DODD, DODI, Army/MEDCOM regulations, and UCMJ).

g. Professional and organizational values and ethics.

h. Federal, State, and local laws concerning privileged communication, reporting responsibilities, and the protection of potential victims.

B-3. Skills

a. Conduct a diagnostic interview.

b. Formulate a contextual history of client's presenting problem.

c. Conduct a mental status examination.

d. Consult with other healthcare providers, legal authorities, command, and so forth, as appropriate.

e. Document findings in medical records, reports, consults, and so forth.

f. Prepare and/or provide written and verbal reports to command detailing all findings and recommendations according to references cited in appendix A of this regulation.

Appendix C

Sample Worksheet: Patient Rights Orientation Worksheet

You have been admitted to (MTF) Inpatient Psychiatry Unit because a staff psychiatrist has determined that your condition required emergency or involuntary evaluation and treatment that could not reasonably and/or safely be conducted on an outpatient basis.

1. Reason(s) for your admission:

2. Upon admission to (MTF)—

a. A psychiatric technician will—

(1) Take your vital signs and orient you to the ward.

(2) Review the ward and facility rules with you.

(3) Give you a handout that lists your patient rights and advises you of what to do if you feel that your rights are being violated.

b. A registered nurse will—

(1) Interview you and complete an initial nursing assessment.

(2) Initiate your treatment plan based on the admitting doctor's orders and the information obtained from you during your interview.

(3) Review and discuss any questions that you may have concerning your patient rights.

3. Within the first 24 hours of admission, a psychiatrist (or another privileged physician if a psychiatrist is not available) will evaluate your condition and determine if continued hospitalization is warranted.

4. Within two business days, you will be notified--both orally and in writing--whether continued hospitalization is warranted and the reason for this decision. If the decision is that you must remain hospitalized and you disagree with that decision, then you may request that an external review process be initiated to determine the appropriateness of the attending physician's decision.

Appendix C (continued)

5. The external review process is—

a. Mandated within 72 hours of continued involuntary hospitalization.

b. Conducted by a medical officer NOT in your chain of command who is in the grade of O-4 or above.

6. The reviewing medical officer will—

a. Interview you on the ward.

b. Notify you during the interview of your right to have legal representation by a military attorney detailed for that purpose or a civilian attorney retained at your own expense.

c. Assess whether continued evaluation, treatment, or discharge is appropriate.

d. Determine if there is reasonable cause to believe that your behavioral health evaluation referral and hospitalization were inappropriately made or otherwise conducted in violation of DODD 6490.1.

7. If the reviewing medical officer determines that your patient rights have been violated under DODD 6490.1, he will report the findings to the appropriate authorities for further investigation.

Patient Signature

Patient Name, Date/Time

Appendix D

Sample Form: Active Duty Consent for Psychiatric Hospitalization

F-1. I hereby consent/ DO NOT consent to hospitalization for psychiatric treatment at (MTF). I understand that this admission is being recommended to ensure that an adequate evaluation of and appropriate treatment for my psychiatric condition can be provided, and that it is not thought that such an evaluation can be safely accomplished in an outpatient setting.

F-2. I understand that I will be expected to remain on the ward and in the company of staff members at all times as specified by facility rules and policy.

F-3. While admitted to (MTF), I understand that this is my place of duty until I am returned (that is, discharged from the facility) to duty or receive other disposition as determined by the attending psychiatrist.

Service Member's Signature and Date

Signature of Admitting Physician or
Designated Representative and Date

Appendix E
Sample Memorandum: Commanding Officer Request for Routine (Non-Emergency) Behavioral Health Evaluation

(Office symbol)

Date _____

MEMORANDUM FOR COMMANDING OFFICER, (MTF or Clinic)

FROM: COMMANDING OFFICER, (Name of Command)

SUBJECT: Command Referral for Behavioral Health Evaluation of (Service Member)

Rank	Name	Branch of Service	SSN
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- References:
- (a) DOD Directive 6490.1, Mental Health Evaluations of Members of the Armed Forces.
 - (b) DOD Instruction 6490.4, Requirements for Mental Health Evaluations of Members of the Armed Forces.
 - (c) Section 546 of Public Law 102-484, National Defense Authorization Act of Fiscal Year 1993.
 - (d) DOD Directive 7050.6, Military Whistleblower Protection.

1. In accordance with the above references, I hereby request a formal behavioral health evaluation of (rank and name of Service member).

2. (Name and rank of Service member) has (years) and (months) AD service and has been assigned to my command since (date). Legal action is/is not currently pending against the Service member. (If charges are pending, list dates and UCMJ articles.) Past legal actions include: (List dates, charges, non judicial punishments and/or findings of courts martial).

3. I have forwarded to the Service member a memorandum that advises (rank and name of Service member) of his/her rights. This memorandum also states the reasons for this referral, the name of the behavioral healthcare provider(s) with whom I consulted, and the names and telephone numbers of judge advocates, DOD attorneys, and/or inspectors general who may advise and assist him/her. A copy of this memorandum is enclosed for your review.

Appendix E (continued)

4. (Service member's rank and name) has been scheduled for evaluation by (name and rank of behavioral healthcare provider) at (name of MTF or clinic) on (date) at (time).
5. Should you wish additional information, you may contact (name and rank of the designated point of contact) at (telephone number).
6. Please provide a summary of your findings and recommendations to me as soon as they are available.

Signature

Commanding Officer's Rank and Name

Appendix F

Sample Memorandum: Service Member Notification of Commanding Officer Referral for a Non-Emergency Behavioral Health Evaluation

(Office symbol)

Date _____

MEMORANDUM FOR (Service member),

Rank

Name

SSN

FROM: COMMANDING OFFICER,

Name of Command

SUBJECT: Notification of Commanding Officer Referral for Behavioral Health Evaluation (Non-Emergency)

- References:
- (a) DOD Directive 6490.1, Mental Health Evaluations of Members of the Armed Forces.
 - (b) DOD Instruction 6490.4, Requirements for Mental Health Evaluations of Members of the Armed Forces.
 - (c) Section 546 of Public Law 102-484, National Defense Authorization Act of Fiscal Year 1993.
 - (d) DOD Directive 7050.6, Military Whistleblower Protection.

1. In accordance with the above references, this memorandum is to inform you that I am referring you for a behavioral health evaluation.
2. The following is a description of your behaviors and/or verbal expressions that I considered in determining the need for a behavioral health evaluation: (Provide dates and a brief factual description of the Service member's actions of concern.)
3. Before making this referral, I consulted with the following behavioral healthcare provider(s) about your recent actions: (list rank, name, corps, branch of each provider consulted) at (name of medical treatment facility or clinic) on (date(s)). (Rank(s) and name(s) of behavioral healthcare provider(s)) concur(s) that this evaluation is warranted and is appropriate. Or, consultation with a behavioral healthcare provider prior to this referral is (was) not possible

Appendix F (continued)

because (give reason; for example, geographic isolation from available behavioral healthcare provider, and so forth).

4. Per the above references, you are entitled to the rights listed below:

a. The right, upon your request, to speak with an attorney who is a member of the Armed Forces or is employed by the DOD who is available for the purpose of advising you of the ways in which you may seek redress should you question this referral.

b. The right to submit to your Service IG or to the IG of the DOD for investigation of an allegation that your behavioral health evaluation referral was a reprisal for making or attempting to make a lawful communication to a member of Congress; any appropriate authority in your chain of command; an IG; or a member of a DOD audit, inspection, investigation, or law enforcement organization; or in violation of the above references, applicable DOD Instructions, and/or any applicable regulations.

c. The right to obtain a second opinion and be evaluated by a behavioral healthcare provider of your own choosing, at your own expense, if reasonably available. Such an evaluation by an independent behavioral healthcare provider will be conducted within a reasonable period of time, usually within ten business days, and will neither delay nor substitute for an evaluation performed by a DOD behavioral healthcare provider.

d. The right to communicate without restriction with an IG, attorney, member of Congress, or others about your referral for a behavioral health evaluation. This provision does not apply to a communication that is unlawful.

e. The right, except in emergencies, to have at least two business days before the scheduled behavioral health evaluation to meet with an attorney, IG, chaplain, or other appropriate party. If I believe your situation constitutes an emergency or that your condition appears potentially harmful to your well-being and I judge that it is not in your best interest to delay your behavioral health evaluation for two business days, I will state my reasons in writing as part of the request for the behavioral health evaluation.

f. If you are assigned to a naval vessel, deployed or otherwise geographically isolated because of circumstances related to military duties that make compliance with any of the procedures in paragraphs (3), above, or procedures described in this paragraph impractical, I will prepare and give you a copy of the memorandum setting forth the reasons for my inability to comply with these procedures.

5. You are scheduled to meet with (name and rank of the behavioral healthcare provider) at (name of MTF or clinic) on (date) at (time).

Appendix F (continued)

6. The following authorities can assist you if you wish to question this referral:

a. Military attorney: (Provide rank, name, location, telephone number, and available hours.)

b. Inspector general: (Provide rank/title, name, address, telephone number, and available hours for service and IG, DOD. The IG, DOD telephone number is 1-800-424-9098.)

c. Other available resources: (Provide rank, name, corps/title of chaplains, or other resources available to counsel and assist the Service member.)

Signature

Commanding Officer's Rank and Name

I have read the memorandum above and have been provided a copy.

Service Member's Signature and Date

OR

The Service member declined to sign this memorandum which includes the Service member's Statement of Rights because (give reason and/or quote Service member):

Witness's Signature and Date

Witness's Rank, Name and Date

(Provide a copy of this memorandum to the Service member.)

Appendix G

Sample Memorandum: Notification to Service Member of Continued Involuntary Hospitalization

(Office symbol)

Date _____

MEMORANDUM FOR (Involuntarily Hospitalized Patient)

SUBJECT: Review of Involuntary Inpatient Psychiatric Hospitalization

1. In accordance with Department of Defense Directive (DODD) 6490.1 and DOD Instruction (DODI) 6490.4, the basis for your initial admission and ongoing hospitalization at (MTF) was reviewed and assessed. This assessment included a review of your medical records and all documentation that resulted in your hospitalization.
2. After considering all the information available, including your examination, it is the determination of the undersigned that your mental condition necessitates continued involuntary hospitalization based on your ongoing potential for imminent dangerousness, a common feature of your DSM-IV TR, diagnosis of (diagnosis).
3. The sincere goal of the treatment staff is to return you to an outpatient status as soon as is clinically appropriate. When your conduct indicates to a reasonable clinical certainty that you will not again become violent and/or suicidal, you will be discharged if otherwise medically appropriate. If your involuntary hospitalization continues beyond another 72 hours, your status will again be reviewed on that date.

Signature

Glossary

Section I Abbreviations

AD

active duty

DA

Department of Army

DOD

Department of Defense

DODD

Department of Defense Directive

DODI

Department of Defense Instruction

DSM-IV-TR

Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision

IG

Inspector General

MEDCOM

United States Army Medical Command

MTF

military treatment facility

OTSG

Office of The Surgeon General

RMC

regional medical command

UCMJ

Uniform Code of Military Justice

Section II Terms

Behavioral health evaluation

A clinical assessment of a Service member for a mental, physical, or personality disorder, the purpose of which is to determine a Service member's clinical behavioral health status and/or fitness and/or suitability for Service. The behavioral health evaluation will consist of, as a minimum, a clinical interview and mental status examination and may include, additionally: a review of medical records; a review of other records, such as the Service personnel record; information forwarded by the service member's commanding officer; psychological testing; physical examination; and laboratory and/or other specialized testing. Interviews conducted by the Family Advocacy Program or Service's drug and alcohol abuse rehabilitation program personnel are not considered behavioral health evaluations for the purpose of DODD 6490.1 and DODI 6490.4.

Behavioral healthcare provider

A psychiatrist, doctoral-level clinical psychologist, or doctoral-level clinical social worker with necessary and appropriate professional credentials who is privileged to conduct behavioral health evaluations for DOD components.

Emergency

A situation in which a service member is threatening imminently, by words or actions, to harm himself/herself or others, or to destroy property under circumstances likely to lead to serious personal injury or death, and to delay a behavioral health evaluation to complete administrative requirements according to DODD 6490.1 or DODI 6490.4, could further endanger the service member's life or well-being, or the well-being of potential victims. An emergency with respect to self may also be construed to mean an incapacity by the individual to care for himself/herself, such as not eating or drinking; sleeping in inappropriate places or not maintaining a regular sleep schedule; not bathing; defecating or urinating in inappropriate places; and so forth. While the service member retains the rights as described in DODD 6490.1 and DODI 6490.4 in cases of emergency, notification to the service member of his/her rights shall not take precedence over ensuring the Service member's or other's safety and may be delayed until it is practical to do so.

Imminent dangerousness

A clinical finding or judgment by a privileged, doctoral-level behavioral healthcare provider based on a comprehensive behavioral health evaluation that an individual is at substantial risk of committing an act or acts in the near future which would result in serious personal injury or death to himself/herself, another person or persons, or of destroying property under circumstances likely to lead to serious personal injury, or death, and that the individual manifests the intent and ability to carry out that action. A violent act of a sexual nature is considered an act which would result in serious personal injury.

Inspector general

The IG, DOD, and a military or civilian employee assigned or detailed under DOD component regulations to serve as an IG at any command level in one of the DOD components.

Least restrictive alternative principle

A principle under which a Service member committed for hospitalization and treatment shall be placed in the most appropriate and therapeutic available setting that is no more restrictive than is conducive to the most effective form of treatment, and in which treatment is available and the risk of physical injury and/or property damage posed by such a placement are warranted by the proposed plan of treatment. Such treatments form a continuum of care including no treatment, outpatient treatment, partial hospitalization, residential treatment, inpatient treatment, involuntary hospitalization, seclusion, bodily restraint, and pharmacotherapy, as clinically indicated.

Mental disorder

As defined by the DSM-IV-TR, a mental disorder is a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress (for example, a painful symptom) or disability (that is, impairment in one or more important areas of functioning) or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom. In addition, this syndrome or pattern must not be merely an expectable and culturally sanctioned response to a particular event (for example, the death of a loved one). Whatever its original cause, it must currently be considered a manifestation of a behavioral, psychological, or biological dysfunction in the individual. Neither deviant behavior (for example, political, religious, or sexual) nor conflicts that are primarily between the individual and society are mental disorders unless the deviance or conflict is a symptom of a dysfunction in the individual, as described above.

Mental status evaluation

A structured way of observing and describing a patient's current state of mind, under the domains of appearance, attitude, behavior, mood and affect, speech, thought process, thought content, perception, cognition, insight, and judgment.

Non-doctoral-level behavioral healthcare provider (Non qualified behavioral healthcare provider)

A psychiatric resident/intern, psychiatric nurse, master's level clinical social worker, or a non-doctoral-level psychology officer.

Non-emergency behavioral health evaluation

See routine behavioral health evaluation.

Potential dangerousness (not imminently dangerous)

A clinical finding or judgment by a privileged, doctoral-level behavioral healthcare provider based on a comprehensive behavioral health evaluation that an individual has demonstrated violent behavior against himself/herself, another person or persons, or of destroying property under circumstances likely to lead to serious personal injury or death, or possesses long-

standing character traits indicating a tendency towards such violence, but is not currently immediately dangerous to himself/herself or to others. A violent act of a sexual nature is considered an act which would result in serious personal injury.

Protected communication (colloquially known as "whistle blowing" communication)

Any lawful communication to a Member of Congress or an IG which communicates information that the Service member reasonably believes evidences a violation of law or regulation, including sexual harassment or unlawful discrimination, mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety when such communication is made to any of the following: a Member of Congress; an IG; a member of a DOD audit, inspection, investigation, or law enforcement organization; or any other person or organization (including any person or organization in the chain of command) designated under component regulations or other established administrative procedures to receive such communication.

Routine behavioral health evaluation (non-emergency behavioral health evaluation)

Any behavioral health evaluation that is not an emergency and which falls under the scope of DODI 6490-4 self-referral (or voluntary referral). The process of seeking information about or obtaining an appointment for a behavioral health evaluation or treatment initiated by a Service member independently for him/her.

Senior privileged non-physician provider

In the absence of a physician, the most experienced and trained healthcare provider who holds privileges to evaluate and treat patients, such as a master's level social worker, a nurse practitioner/advance practice nurse, or a physician assistant.

Service member

An individual in the active or Reserve Components of any of the seven Uniformed Services to include: the United States Army, Navy, Air Force, Marine Corps, Public Health Service Corps, National Oceanic and Atmospheric Corps, and the Coast Guard when it operates as a military Service under the United States Navy.

The proponent of this publication is the Office of the Assistant Chief of Staff for Operations. 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: DASG-HSZ, 2748 Worth Road, Fort Sam Houston, Texas 78234-6000.

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