

for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations for directions.

(e) Forest Service must approve any amendment to a proposal or request to reallocate funding within a grant proposal. If negotiations on a selected project fail, the applicant cannot substitute an alternative site.

(f) The grant recipient must comply with the requirements in § 230.8 before funds will be released.

(g) After the project has closed, as a requirement of the grant, grant recipients will be required to provide the Forest Service with a Geographic Information System (GIS) shapefile: a digital, vector-based storage format for storing geometric location and associated attribute information, of CFP project tracts and cost share tracts, if applicable.

(h) Any funds not expended within the grant period must be de-obligated and revert to the Forest Service for redistribution.

(i) All media, press, signage, and other documents discussing the creation of the community forest must reference the partnership and financial assistance by the Forest Service through the CFP.

#### § 230.8 Acquisition requirements.

(a) Grant recipients participating in the CFP must complete the following, which applies to all tracts, including cost share tracts:

(1) Complete an appraisal:

(i) For lands purchased with CFP funds, the appraisal must comply with Federal Appraisal Standards prior to the release of the grant funds. The grant recipient must provide documentation that the appraisal and associated appraisal review were conducted in a manner consistent with the Federal appraisal standards.

(ii) For donated cost share tracts, the market value must be determined by an independent appraiser. The value needs to be documented by a responsible official of the party to which the property is donated.

(2) Prior to closing, notify the landowner in writing of the appraised value of the property and that the sale is voluntary. If the grant recipient has a voluntary option for less than appraised value, they do not have to renegotiate the agreement.

(3) Purchase all surface and subsurface mineral rights, whenever possible. However, if severed mineral rights cannot be obtained, then the grant recipient must follow the retention of qualified mineral interest requirements outlined in the Internal Revenue Service regulations (26 CFR 1.170A-14 (g)(4)),

which address both surface and subsurface minerals.

(4) Ensure that title to lands acquired conforms to title standards applicable to State land acquisitions where the land is located:

(i) Title to lands acquired using CFP funds must not be subject to encumbrances or agreements of any kind that would be contrary to the purpose of the CFP.

(ii) Title insurance must not be a substitute for acceptable title.

(5) Record with the deed in the lands record of the local county or municipality, a Notice of Grant Requirement, which includes the following:

(i) States that the property (including cost share tracts) was purchased with CFP funds;

(ii) Provides a legal description;

(iii) Identifies the name and address of the grant recipient who is the authorized title holder;

(iv) States the purpose of the CFP;

(v) References the Grant Agreement with the Forest Service (title and agreement number) and the address where it is kept on file;

(vi) States that the grant recipient confirms its obligation to manage the interest in real property pursuant to the grant, the Community Forest Plan, and the purpose of the CFP;

(vii) States that the grant recipient will not convey or encumber the interest in real property, in whole or in part, to another party; and

(viii) States that the grant recipient will manage the interest in real property consistent with the purpose of the CFP.

#### § 230.9 Ownership and use requirements.

(a) Grant recipient shall complete the final community forest plan within 120 days of the land acquisition, and must update the plan periodically to guide the management and the community benefits of the community forest.

(b) Grant recipient shall provide appropriate public access.

(c) In the event that a grant recipient sells or converts to nonforest uses or a use inconsistent with the purpose of the CFP, a parcel of land acquired under the CFP, the grant recipient shall:

(1) Pay the United States an amount equal to the current sale price or the current appraised value of the parcel, whichever is greater; and

(2) Not be eligible for additional grants under the CFP.

(d) For Indian tribes, land acquired using a grant provided under the CFP must not be sold, converted to nonforest uses or a use inconsistent with the purpose of the CFP, or converted to land held in trust by the United States on behalf of any Indian tribe.

(e) Every five years, the grant recipients will submit to the Forest Service a self-certifying statement that the property has not been sold or converted to nonforest uses or a use inconsistent with the purpose of the CFP.

(f) Grant recipients will be subject to a spot check conducted by the Forest Service to verify that property acquired under the CFP has not been sold or converted to nonforest uses or a use inconsistent with the purpose of the CFP.

#### § 230.10 Technical assistance funds.

CFP technical assistance funds may be provided to State Foresters or equivalent officials of Indian tribes through an administrative grant to help implement community forest projects funded through the CFP, and as a result, funds will only be provided to States or Indian tribes with a CFP project funded within their jurisdiction. Section 7A (f) of the authorizing statute limits the funds made available for program administration and technical assistance to no more than 10% of all funds made available to carry out the program for each fiscal year.

Dated: October 14, 2011.

Arthur L. Blazer,

Deputy Under Secretary, NRE.

[FR Doc. 2011-27117 Filed 10-17-11; 4:15 pm]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 1

RIN 2900-AN95

#### Sharing Information Between the Department of Veterans Affairs and the Department of Defense

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) regulation pertaining to the applicability of certain VA regulations that restrict the disclosure of certain medical information to the Department of Defense (DoD). This interim final rule removes a restriction that is not required by the applicable statute, 38 U.S.C. 7332(e), and is inconsistent with the intent and purpose of that statute.

**DATES:** *Effective Date:* This interim final rule is effective October 20, 2011. Comments must be received by VA on or before December 19, 2011.

**ADDRESSES:** Written comments may be submitted through [www](http://www.va.gov).

*Regulations.gov*; by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to “RIN 2900-AN95—Sharing Information between the Department of Veterans Affairs and the Department of Defense.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Stephania Griffin, Veterans Health Administration Privacy Officer, Office of Information (19F2), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington DC, 20420, (704) 245-2492. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Section 7332(a)(1) of title 38, United States Code, affords special protection against the disclosure of VA medical “[r]ecords of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia.” However, an exception in section 7332(e) states: “The prohibitions of this section shall not prevent any interchange of records—(1) within and among those components of [VA] furnishing health care to veterans, or determining eligibility for benefits under this title; or (2) between such components furnishing health care to veterans and the Armed Forces.”

VA implemented section 7332(e) in 38 CFR 1.461(c)(1); however, in so doing, we did not implement the specific exception that Congress provided in the statute for the exchange of information between VA and DoD. Instead, we imposed an additional restriction on the scope of information that may be interchanged and shared between VA and DoD, limiting it to only “information pertaining to a person relating to a period when such person

is or was subject to the Uniform Code of Military Justice.” This restriction is narrower than the statutory restriction, and it impedes VA’s ability to share with DoD important medical information pertaining to veterans, so that we can coordinate their care and treatment. Our need to share this information is critical to the health and well-being of our veterans, particularly those whose records are transferred electronically between DoD and VA for medical care. Medical care requires the ability to make accurate and informed decisions, often under great time constraints. VA and DoD clinicians must have the most accurate and comprehensive data available to ensure that they provide the highest quality care possible. VA and DoD have made great strides in ensuring that the exchange of medical information regarding current and former members of the military is available wherever the care is being provided. We have discovered that, particularly in this age of electronic health records, this regulatory restriction creates an impediment to maximizing the exchange of information. Critical medical history may be out of reach of the clinician treating a patient with a chronic condition. In contrast, having a fully developed medical record will ensure that VA and DoD clinicians avoid allergic reactions from known drug allergies and negative interactions of a new drug with one previously prescribed. It will also ensure that patients will not unnecessarily undergo medical procedures that were already performed elsewhere.

Further, the additional restriction impedes VA’s ability to fully engage in Presidential- and Congressional-supported interoperability initiatives with DoD, such as electronic health record initiatives pursuant to Executive Order 13335 and the Virtual Lifetime Electronic Record initiative, a strategic initiative that will ensure timely access to key electronic information on patients from the time they enter the military through their status as Veterans. We note as well that this regulatory limitation was not intended to have these negative results on VA’s ability to provide comprehensive high-quality health care to veterans and, where applicable, to support DoD in similarly caring for servicemembers and military retirees. Therefore, the proposed amendment to 38 CFR 1.461(c)(1) will allow VA to fulfill Congress’ clear intention that VA and DoD engage in the interchange of records while remaining consistent with 38 U.S.C. 7332.

## Administrative Procedure Act

In accordance with 5 U.S.C. 553(b)(3)(B) and (d)(3), the Secretary of Veterans Affairs finds that there is good cause to dispense with the opportunity for advance notice and public comment and good cause to publish this rule with an immediate effective date. As stated above, this interim final rule is necessary to eliminate an unnecessary regulatory restriction on VA’s ability to share certain patient information with DoD that impedes VA’s ability to provide needed health care to veterans and engage in critical programs with DoD, as described earlier in this notice. Delaying the effective date of this rule would negatively impact the full development and implementation of a VA and DoD electronic record system. Over 4 million patients are seen jointly by VA and DoD. By removing this unnecessary restriction, VA and DoD can each maximize the benefits of an electronic record system through which clinicians in either Department are able to access health data on those shared patients in real time and similar information exchanges for outpatient pharmacy and medication allergy data and for the electronic sharing of order entry and results retrieval of chemistry, hematology, anatomic pathology, and microbiology laboratory tests. To delay the effective date would hamper the electronic exchange of health information between VA and DoD, which, to ensure high levels of patient care and safety, must include the information related to the diagnoses covered by this regulation. In light of these detrimental and potentially detrimental effects, the Secretary finds it is impracticable, unnecessary, and contrary to public interest to delay this regulation for the purpose of soliciting advance public comment, or to have a delayed effective date.

Accordingly, we are issuing this rule as an interim final rule, with an immediate effective date. We will consider and address comments that are received within 60 days of the date this interim final rule is published in the **Federal Register**.

## Effect of Rulemaking

The Code of Federal Regulations, as revised by this interim final rule, represents the exclusive legal authority on this subject. No contrary rules or procedures are authorized. All VA guidance will be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

### Paperwork Reduction Act

This rule contains no collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

### Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will not directly affect any small entities; only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

### Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 defines a “significant regulatory action,” which requires review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local,

or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this interim final rule have been examined and it has been determined not to be a significant regulatory action.

### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; and 64.013, Veterans Prosthetic Appliances.

### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and

authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on October 14, 2011, for publication.

### List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Crime, Flags, Freedom of information, Government contracts, Government employees, Government property, Infants and children, Penalties, Privacy, Reporting and recordkeeping requirements, Security measures.

Dated: October 17, 2011.

### William F. Russo,

*Deputy Director, Office of Regulation Policy and Management, Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 1 as follows:

### PART 1—GENERAL PROVISIONS

■ 1. The authority citation for part 1 continues to read as follows:

**Authority:** 38 U.S.C. 501(a), and as noted in specific sections.

### § 1.461 [Amended]

■ 2. In the first sentence of § 1.461(c)(1), remove the phrase “, of information pertaining to a person relating to a period when such person is or was subject to the Uniform Code of Military Justice”.

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