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Department of Veterans Affairs § 1.487

the Privacy Act (5 U.S.C. 552a(c) and 38 CFR 1.576(c)) and document the disclosure in the patient’s records setting forth in writing:

(1) The name and address of the medical personnel to whom disclosure was made and their affiliation with any health care facility;

(2) The name of the individual making the disclosure;

(3) The date and time of the disclosure;

(4) The nature of the emergency (or error, if the report was to FDA);

(5) The information disclosed; and

(6) The authority for making the disclosure (§ 1.485 of this part).

(Authority: 38 U.S.C. 5701(k), 7332(b)(2)(E))

§ 1.486 Disclosure of information related to infection with the human immunodeficiency virus to public health authorities.

(a) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the HIV, information may be disclosed to a Federal, State, or local public health authority, charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law. In the case of a State law, such law must, in order for VA to be able to release patient name and address information in accordance with 38 U.S.C. 5701(f)(2), provide for a penalty or fine or other sanction to be assessed against those individuals who are subject to the jurisdiction of the public health authority but fail to comply with the reporting requirements.

(b) A person to whom a record is disclosed under this section may not redisclose or use such record for a purpose other than that for which the disclosure was made.

(Authority: 38 U.S.C. 7332(b)(2)(C))

§ 1.487 Disclosure of information related to infection with the human immunodeficiency virus to the spouse or sexual partner of the patient.

(a) Subject to paragraph (b) of this section, a physician or a professional counselor may disclose information or records indicating that a patient is infected with the HIV if the disclosure is made to the spouse of the patient, or to an individual whom the patient has, during the process of professional counseling or of testing to determine whether the patient is infected with such virus, identified as being a sexual partner of such patient.

(Authority: 38 U.S.C. 7332(b)(2)(A))
(b) A disclosure under this section may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient to provide the information to the spouse or sexual partner, reasonably believes that the patient will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

(c) A disclosure under this section may be made by a physician or counselor other than the physician or counselor referred to in paragraph (b) of this section if such physician or counselor is unavailable by reason of extended absence or termination of employment to make the disclosure.

(Authority: 38 U.S.C. 7332(b))

§ 1.489 Audit and evaluation activities.

Subject to the provisions of 38 U.S.C. 5701, 38 CFR 1.500–1.527, the Privacy Act (5 U.S.C. 552a), 38 CFR 1.575–1.584 and the following paragraphs, patient medical record information covered by §§1.460 through 1.499 of this part may be disclosed for the purposes of conducting audit and evaluation activities.

(a) Records not copies. If patient records covered by §§1.460 through 1.499 of this part are not copied, patient identifying information may be disclosed in the course of a review of records on VA facility premises to any person who agrees in writing to comply with the limitations on redisclosure and use in paragraph (d) of this section and:

(1) Where audit or evaluation functions are performed by a State or Federal governmental agency on behalf of VA; or

(2) Who is determined by the VA facility director to be qualified to conduct the audit or evaluation activities.

(b) Copying of records. Records containing patient identifying information may be copied by any person who:

(1) Agrees in writing to:

(i) Maintain the patient identifying information in accordance with the security requirements provided in §1.466 of this part (or more stringent requirements);

(ii) Destroy all the patient identifying information upon completion of the audit or evaluation; and

(iii) Comply with the limitations on disclosure and use in paragraph (d) of this section.

(2) The VA medical facility director determines to be qualified to conduct the audit or evaluation activities.

(c) Congressional oversight. Records subject to §§1.460 through 1.499 of this part upon written request may be released to congressional committees or subcommittees for program oversight and evaluation if such records pertain