

Department of Veterans Affairs

§§ 1.497-1.499

requirements of, §1.493(d) and (e) of this part.

(d) *Limitations on disclosure and use of patient identifying information.* (1) An order entered under this section must require the deletion of patient identifying information from any documents made available to the public.

(2) No information obtained under this section may be used to conduct any investigation or prosecution of a patient, or be used as the basis for an application for an order under §1.494 of this part.

(Authority: 38 U.S.C. 7334)

**§ 1.496 Orders authorizing the use of undercover agents and informants to criminally investigate employees or agents of VA.**

(a) *Application.* A court order authorizing the placement of an undercover agent or informant in a VA drug or alcohol abuse, HIV infection, or sickle cell anemia treatment program as an employee or patient may be applied for by any law enforcement or prosecutorial agency which has reason to believe that employees or agents of the VA treatment program are engaged in criminal misconduct.

(b) *Notice.* The VA facility director must be given adequate notice of the application and an opportunity to appear and be heard (for the limited purpose of providing evidence on the statutory and regulatory criteria for the issuance of the court order), unless the application asserts a belief that:

(1) The VA facility director is involved in the criminal activities to be investigated by the undercover agent or informant; or

(2) The VA facility director will intentionally or unintentionally disclose the proposed placement of an undercover agent or informant to the employees or agents who are suspected of criminal activities.

(c) *Criteria.* An order under this section may be entered only if the court determines that good cause exists. To make this determination the court must find:

(1) There is reason to believe that an employee or agent of a VA treatment program is engaged in criminal activity;

(2) Other ways of obtaining evidence of this criminal activity are not available or would not be effective; and

(3) The public interest and need for the placement of an undercover agent or informant in the VA treatment program outweigh the potential injury to patients of the program, physician-patient relationships and the treatment services.

(d) *Content of order.* An order authorizing the placement of an undercover agent or informant in a VA treatment program must:

(1) Specifically authorize the placement of an undercover agent or an informant;

(2) Limit the total period of the placement to six months;

(3) Prohibit the undercover agent or informant from disclosing any patient identifying information obtained from the placement except as necessary to criminally investigate or prosecute employees or agents of the VA treatment program; and

(4) Include any other measures which are appropriate to limit any potential disruption of the program by the placement and any potential for a real or apparent breach of patient confidentiality; for example, sealing from public scrutiny the record of any proceeding for which disclosure of a patient's record has been ordered.

(e) *Limitation on use of information.* No information obtained by an undercover agent or informant placed under this section may be used to criminally investigate or prosecute any patient or as the basis for an application for an order under § 1.494 of this part.

(Authority: 38 U.S.C. 7334)

**§§ 1.497-1.499 [Reserved]**

RELEASE OF INFORMATION FROM DEPARTMENT OF VETERANS AFFAIRS CLAIMANT RECORDS

NOTE: Sections 1.500 through 1.527 concern the availability and release of information from files, records, reports, and other papers and documents in Department of Veterans Affairs custody pertaining to claims under any of the laws administered by the Department of Veterans Affairs. As to the release of information from Department of Veterans Affairs records other than claimant records, see §§1.550 through 1.558. Sections 1.500

## § 1.500

through 1.526 implement the provisions of 38 U.S.C. 5701, 5702.

[32 FR 10848, July 25, 1967]

AUTHORITY: Sections 1.500 to 1.527 issued under 72 Stat. 1114, 1236, as amended; 38 U.S.C. 501, 5701.

### § 1.500 General.

(a) Files, records, reports, and other papers and documents pertaining to any claim filed with the Department of Veterans Affairs, whether pending or adjudicated, and the names and addresses of present or former personnel of the armed services, and their dependents, in the possession of the Department of Veterans Affairs, will be deemed confidential and privileged, and no disclosure therefrom will be made except in the circumstances and under the conditions set forth in §§ 1.501 through 1.526.

(b) A claimant may not have access to or custody of official Department of Veterans Affairs records concerning himself or herself nor may a claimant inspect records concerning himself or herself. Disclosure of information from Department of Veterans Affairs records to a claimant or his or her duly authorized agent or representative may be made, however, under the provisions of §§ 1.501 through 1.526.

(c) Each administration, staff office, and field facility head will designate an employee(s) who will be responsible for initial action on (granting or denying) requests to inspect or obtain information from or copies of records under their jurisdiction and within the purview of §§ 1.501 through 1.526 unless the regulations in this part currently contain such designations. The request should be made to the office concerned (having jurisdiction of the record desired) or, if not known, to the Director or Veterans Assistance Officer in the nearest VA regional office, or to the VA Central Office, 810 Vermont Avenue NW., Washington, DC 20420. Personal contacts should normally be made during the regular duty hours of the office concerned, which are 8 a.m. to 4:30 p.m., Monday through Friday, for VA Central Office and most field facilities. Any legal question arising in a field facility concerning the release of information will be referred to the appropriate Regional Counsel for disposition

## 38 CFR Ch. I (7-1-14 Edition)

as contemplated by § 13.401 of this chapter. In central office such legal questions will be referred to the General Counsel. Any administrative question will be referred through administrative channels to the appropriate administration or staff office head.

(d) Upon denial of a request under paragraph (c) of this section, the responsible Department of Veterans Affairs official or designated employee will inform the requester in writing of the denial and advise him or her that he or she may appeal the denial. The requester will also be furnished the title and address of the Department of Veterans Affairs official to whom the appeal should be addressed. (See § 1.527.) In each instance of denial of a request, the denial will be made a matter of record and the record will contain a citation to the specific provision of Department of Veterans Affairs regulations upon which the denial is based.

[24 FR 8174, Oct. 8, 1959, as amended at 32 FR 10848, July 25, 1967; 38 FR 15601, June 14, 1973]

### § 1.501 Release of information by the Secretary.

The Secretary of Veterans Affairs or the Deputy Secretary may release information, statistics, or reports to individuals or organizations when in the Secretary's or Deputy Secretary's judgment such release would serve a useful purpose.

[32 FR 10848, July 25, 1967, as amended at 54 FR 34980, Aug. 23, 1989]

### § 1.502 Disclosure of the amount of monetary benefits.

The monthly rate of pension, compensation, dependency and indemnity compensation, retirement pay, subsistence allowance, or educational assistance allowance of any beneficiary shall be made known to any person who applies for such information.

[32 FR 10848, July 25, 1967]

### § 1.503 Disclosure of information to a veteran or his or her duly authorized representative as to matters concerning the veteran alone.

Information may be disclosed to a veteran or his or her duly authorized