DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0649]

Agency Information Collection (National Registry of Veterans With Amyotrophic Lateral Sclerosis) Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 21, 2009.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0649'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0649.''

SUPPLEMENTARY INFORMATION:

Titles:

a. ALS Registry Screening Form, VA Form 10–21047.

b. Biannual Telephone National Registry of Veterans with ALS, VA Form 10–21047a.

c. Verbal Informed Consent VIA Telephone, National Registry of Veterans with ALS, VA Form 10–21047b.

OMB Control Number: 2900–0649.

Type of Review: Extension of a currently approved collection.

Abstract: ALS is a disease of high priority to the Department of Veterans Affairs because of ongoing concerns about the health of veterans who served in the Gulf War. The creation of the registry will have significance both for VA and for the larger U.S. society in understanding the natural history of ALS. It will provide VA with crucial epidemiological data on the current population of veterans with ALS, as well as the ongoing identification of new cases. The data will help VA to understand how veterans are affected by ALS and may assist with early identification of new ALS clusters. This registry will provide a mechanism for informing veterans with ALS of new clinical drug trials and other studies.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 2009, at page 47042.

Affected Public: Individuals or households.

Estimated Annual Burden: 882.

Estimated Average Burden Per Respondent: 29 minutes.

Frequency of Response: Semi-annually.

Estimated Number of Respondents: 1,808.

Dated: November 16, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–27784 Filed 11–18–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA)

ACTION: Notice of amendment to system of records.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records currently entitled ''Patient Medical Records–VA'' (24VA19) as set forth in the **Federal Register**, 69 FR 18428 (Apr. 7, 2004). VA is amending the system by revising the Categories of Records in the System, and Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses; and Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System. VA is republishing the system notice in its entirety.

DATES: Comments on the amendment of this system of records must be received no later than December 21, 2009. If no public comment is received, the amended system will become effective December 21, 2009.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number). 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 (this is not a toll-free number) for an appointment. 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: Veterans Health Administration (VHA) Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; telephone (704) 245–2492.

SUPPLEMENTARY INFORMATION: The Patient Medical Records–VA (24VA19) system of records is amended to clarify the records in the system, to clarify records storage, and to clarify and add routine use disclosure statements.

Categories of Records in the System is amended to reflect subsidiary record information such as minimum data sets (MDS) being included in the consolidated health record (CHR).

Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System is amended to reflect records being maintained on electronic media, which includes images and scanned documents.

Routine use thirteen (13) is amended to add the phrase ''or designee, such as the Medical Center Director of the facility where the information is maintained'' after ''Under Secretary for Health.'' This language clarifies that designated individuals may approve the disclosure of information from records maintained at their facilities for the purpose of research.

Routine use fourteen (14) is amended to add the language ''health information, including.'' This language clarifies that not only names and addresses of veterans but any health information about veterans may also be disclosed for Federal research.

Routine use fifteen (15) is amended to permit disclosure to the Department of

Justice or other Federal agencies in litigation or other administrative or adjudicative proceedings that involve VA, a VA employee, or the Federal government. This language clarifies that, in addition to judicial proceedings in which VA is a party, information may be disclosed in non-judicial administrative or adjudicative proceedings and in proceedings where the Federal government is a party.

Routine use twenty-one (21) is amended to clarify that, consistent with § 7332, disclosure that a patient is infected with the human immunodeficiency virus may be made to an individual identified by the patient during counseling or testing for the virus as a sexual partner.

Routine use twenty-three (23) is amended to delete the phrase ''the acceptance of'' in order to clarify that a health care provider's surrender of or restriction on his or her privileges may not be a material factor in the decision to report the practitioner to the National Practitioner Data Bank or a State Licensing Board.

Routine use forty-three (43) is amended to add the language ''private health care providers or hospitals, DoD, or IHS providers.'' This language clarifies that VHA may disclose health information to all non-VA health care providers, including Federal, private, and public providers, for the purpose of treating veterans.

Routine use forty-six (46) is amended to delete the language excluding medical treatment information related to drug or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia, and the names and home addresses of veterans and their dependents from the routine use. Congress enacted legislation to allow for the disclosure of information protected by 38 U.S.C. 5701 and 7332 to organ procurement organizations for the purpose of determining suitability of patients' organs or tissues for organ donation when death is imminent. This routine use allows VHA to honor the wishes of veterans to be organ donors.

Routine use forty-seven (47) is amended to clarify that the disclosure of information to DoD with respect to the transition, health care, benefits, and administrative needs of or for active duty service members or reserve components, veterans, and their beneficiaries is not limited to times of war or national emergency.

The following routine use disclosure statements are added:

Routine use forty-eight (48) states that disclosure to other Federal agencies may be made to assist those agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs. This routine use permits disclosures by the Department to report or respond to a suspected or confirmed incident of identity theft and provide information and/or documentation related to or in support of the reported incident.

Routine use forty-nine (49) states that VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to report or respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in § 5727.

Routine use fifty (50) states that information may be disclosed from this system of records to any third party or Federal agency, including contractors to those parties, that is responsible for payment of the cost of medical care for the identified patients, in support of VA recovery of medical care costs or for any activities related to payment of medical care costs. These records may also be disclosed as part of a computer matching program to accomplish these purposes. This routine use permits disclosure to third party payers or their contractors for purposes relating to audit of payment and claims management processes.

Routine use fifty-one (51) states that relevant information from this system of records may be disclosed to a quality review and/or peer review organization in connection with the audit of claims or other review activities, to determine quality of care or compliance with professionally accepted claims processing standards. This routine use permits disclosure of information for quality assessment audits received by Healthcare Effectiveness Data and Information Set or similar auditors.

Routine use fifty-two (52) permits the disclosure of health care information as deemed necessary and proper to Federal, State, and local government agencies and national health organizations in order to assist in the development of programs that will be beneficial to claimants, protect their rights under law, and ensure that they are receiving all benefits to which they are entitled. This routine use allows VHA to provide initial and follow-up abstracts to state central cancer registries charged with the protection of public health. A follow-up cancer abstract is generated by the state central cancer registry to the provider who initially reported the cancer case. The American College of Surgeons, Commission on Cancer, requires a 90% follow-up on all cancer patients for purposes of accreditation which in turn demonstrates a high-quality cancer program.

Routine use fifty-three (53) authorizes the disclosure of information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in defense or reasonable anticipation of litigation against the individual regarding health care provided during his or her employment or contract with VA.

Routine use fifty-four (54) permits such disclosure when the former employee's or contractor's information or consultation assistance is necessary in a pending or reasonably anticipated tort claim, litigation, or other administrative or judicial proceeding that involves VA.

Routine use fifty-five (55) allows such disclosure in connection with or consideration of the reporting of that individual to the National Practitioner Data Bank or a state licensing board with respect to the payment of a medical malpractice settlement, a decision relating to possible incompetence or improper professional conduct, or surrender or restriction of privileges while under investigation.

Routine use fifty-six (56) authorizes such disclosure in connection with or in consideration of reporting that individual to a state licensing board for failure to conform to generally accepted standards of professional medical practice.

Routine use fifty-seven (57) also permits such disclosure in administrative proceedings before the Equal Employment Opportunity Commission.

Finally, routine use fifty-eight (58) authorizes such disclosure in administrative proceedings before the Merit Systems Protection Board or the Office of the Special Counsel.

The Department has also made minor edits to the system notice, including routine uses, for grammar and clarity purposes. These changes are not, and are not intended to be, substantive.

The Report of Intent to Amend a System on Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by the Privacy Act, 5 U.S.C. 552a(r), and guidelines issued by OMB, 65 FR 77677, (Dec. 12, 2000).

Approved: October 30, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

24VA19

SYSTEM NAME:

Patient Medical Records–VA

SYSTEM LOCATION:

Records are maintained at each VA health care facility (in most cases, back-up information is stored at off-site locations). Subsidiary record information is maintained at the various respective services within the health care facility (*e.g.*, Pharmacy, Fiscal, Dietetic, Clinical Laboratory, Radiology, Social Work, Psychology) and by individuals, organizations, and/or agencies with which VA has a contract or agreement to perform such services, as VA may deem practicable.

Address locations for VA facilities are listed in Appendix 1 of the biennial publication of the VA Privacy Act Issuances. In addition, information from these records or copies of these records may be maintained at the Department of Veteran Affairs Central Office, 810 Vermont, NW., Washington, DC 20420; VA National Data Centers; VA Health Data Repository (HDR), located at the VA National Data Centers; VA Chief Information Office (CIO) Field Offices; Veterans Integrated Service Networks; and Regional and General Counsel Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Veterans who have applied for health care services under Chapter 17 of Title 38, United States Code, and members of their immediate families;

2. Spouses, surviving spouses, and children of veterans who have applied for health care services under Chapter 17 of Title 38, United States Code;

3. Beneficiaries of other Federal agencies;

4. Individuals examined or treated under contract or resource sharing agreements;

5. Individuals examined or treated for research or donor purposes;

6. Individuals who have applied for Title 38 benefits but who do not meet the requirements under Title 38 to receive such benefits;

7. Individuals who were provided medical care under emergency conditions for humanitarian reasons; and

8. Pensioned members of allied forces provided health care services under Chapter I of Title 38, United States Code.

CATEGORIES OF RECORDS IN THE SYSTEM:

The patient medical record is a consolidated health record (CHR) which may include:

(i) An administrative (non-clinical information) record (*e.g.,* medical benefit application and eligibility information) including information obtained from Veterans Benefits Administration automated records such as the Veterans and Beneficiaries Identification and Records Locator Subsystem-VA (38VA23) and the Compensation, Pension, Education and Rehabilitation Records-VA (58VA21/22/28), and correspondence about the individual;

(ii) A medical record (a cumulative account of sociological, diagnostic, counseling, rehabilitation, drug and alcohol, dietetic, medical, surgical, dental, psychological, and/or psychiatric information compiled by VA professional staff and non-VA health care providers), and

(iii) Subsidiary record information (*e.g.,* tumor registry, minimum data set, dental, pharmacy, nuclear medicine, clinical laboratory, radiology, and patient scheduling information). The consolidated health record may include identifying information (*e.g.,* name, address, date of birth, VA claim number, social security number); military service information (*e.g.,* dates, branch and character of service, service number, medical information); family information (*e.g.,* next of kin and person to notify in an emergency; address information, name, social security number and date of birth for veteran's spouse and dependents; family medical history information); employment information (*e.g.,* occupation, employer name and address); financial information (*e.g.,* family income; assets; expenses; debts; amount and source of income for veteran, spouse, and dependents); third-party health plan contract information (*e.g.,* health insurance carrier name and address, policy number, amounts billed and paid); and information pertaining to the individual's medical, surgical, psychiatric, dental, and/or psychological examination, evaluation, and/or treatment (*e.g.,* information related to the chief complaint and history of present illness; information related to physical, diagnostic, therapeutic special examinations; clinical laboratory, pathology and x-ray findings; operations; medical history; medications prescribed and dispensed; treatment plan and progress; consultations; photographs taken for identification and medical treatment; education and research purposes; facility locations where treatment is provided; observations and clinical impressions of health care providers to include identity of providers and to include, as appropriate, the present state of the patient's health; and an assessment of the patient's emotional, behavioral, and social status, as well as an assessment of the patient's rehabilitation potential and nursing care needs). Abstract information (*e.g.,* environmental, epidemiological and treatment regimen registries) is maintained in auxiliary paper and automated records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Sections 501(b) and 304.

PURPOSE(S):

The paper and automated records may be used for such purposes as: Ongoing treatment of the patient; documentation of treatment provided; payment; health care operations such as producing various management and patient follow-up reports; responding to patient and other inquiries; for epidemiological research and other health care related studies; statistical analysis, resource allocation and planning; providing clinical and administrative support to patient medical care; determining entitlement and eligibility for VA benefits; processing and adjudicating benefit claims by Veterans Benefits Administration Regional Office (VARO) staff; for audits, reviews, and investigations conducted by staff of the health care facility, the networks, VA Central Office, and the VA Office of Inspector General (OIG); sharing of health information between and among Veterans Health Administration (VHA), Department of Defense (DoD), Indian Health Services (IHS), and other government and private industry health care organizations; law enforcement investigations; quality assurance audits,

reviews, and investigations; personnel management and evaluation; employee ratings and performance evaluations; and employee disciplinary or other adverse action, including discharge; advising health care professional licensing or monitoring bodies or similar entities of activities of VA and former VA health care personnel; accreditation of a facility by an entity such as the Joint Commission (JCAHO); and notifying medical schools of medical students' performance and billing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 45 CFR parts 160 and 164, *i.e.,* individually identifiable health information, and 38 U.S.C. 7332, *i.e.,* medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia, or infection with the human immunodeficiency virus, that information may not be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR parts 160 and 164 permitting disclosure.

1. VA may disclose health care information as deemed necessary and proper to Federal, State, and local government agencies and national health organizations in order to assist in the development of programs that will be beneficial to claimants, protect their rights under law, and assure that they are receiving all benefits to which they are entitled.

2. VA may disclose health care information furnished and the period of care, as deemed necessary and proper to accredited service organization representatives and other approved agents, attorneys, and insurance companies to aid claimants whom they represent in the preparation, presentation, and prosecution of claims under laws administered by VA, or State or local agencies.

3. VA may disclose on its own initiative any information, except the names and addresses of veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order issued pursuant thereto.

4. VA may disclose information to a Federal agency or the District of Columbia government, in response to its request, in connection with the hiring or retention of an employee and the issuance of a security clearance as required by law, the reporting of an investigation of an employee, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision.

5. Health care information may be disclosed by appropriate VA personnel to the extent necessary and on a need-to-know basis, consistent with good medical-ethical practices, to family members and/or the person(s) with whom the patient has a meaningful relationship.

6. In response to an inquiry from a member of the general public about a named individual, VA may disclose the patient's name, presence (and location when needed for visitation purposes) in a medical facility, and general condition that does not reveal specific medical information (*e.g.,* satisfactory, seriously ill).

7. In the course of presenting evidence to a court, magistrate, or administrative tribunal in matters of guardianship, inquests, and commitments, VA may disclose relevant information to private attorneys representing veterans rated incompetent in conjunction with issuance of certificates of incompetency and to probation and parole officers in connection with court-required duties.

8. VA may disclose relevant information to a guardian ad litem in relation to his or her representation of a claimant in any legal proceeding.

9. VA may disclose information to a member of Congress or a congressional staff member in response to an inquiry from the congressional office made at the request of that individual.

10. VA may disclose name(s) and address(es) of present or former members of the armed services and/or their dependents under certain circumstances: (a) To any nonprofit organization, if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, or (b) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such organization, agency, or instrumentality has made a written request for such name(s) or address(es) for a purpose authorized by law, provided that the records will not be used for any purpose other than that stated in the request and that the organization, agency, or instrumentality is aware of the penalty provision of 38 U.S.C. 5701(f).

11. VA may disclose the nature of the patient's illness, probable prognosis, estimated life expectancy, and need for the presence of the related service member to the American Red Cross for the purpose of justifying emergency leave.

12. VA may disclose relevant information to attorneys, insurance companies, employers, third parties liable or potentially liable under health plan contracts, and courts, boards, or commissions, to the extent necessary to aid VA in the preparation, presentation, and prosecution of claims authorized under Federal, State, or local laws, and regulations promulgated thereunder.

13. VA may disclose health information for research purposes determined to be necessary and proper to epidemiological and other research entities approved by the Under Secretary for Health or designee, such as the Medical Center Director of the facility where the information is maintained.

14. VA may disclose health information, including the name(s) and address(es) of present or former personnel of the Armed Services and/or their dependents, (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency, at the written request of the head of the agency or the designee of the head of that agency, to conduct Federal research necessary to accomplish a statutory purpose of an agency. When this information is to be disclosed directly to the contractor, VA may impose applicable conditions on the department, agency, and/or contractor to ensure the appropriateness of the disclosure to the contractor.

15. VA may disclose relevant information to the Department of Justice or other Federal agencies in pending or reasonably anticipated litigation or other proceedings before a court, administrative body, or other adjudicative tribunal, when:

(a) VA or any subdivision thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her individual capacity, where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that the proceedings are likely to affect the operations of VA or any of its components is a party to or has an interest in the proceedings, and VA determines that the records are relevant and necessary to the proceedings.

16. Health care information may be disclosed by the examining VA physician to a non-VA physician when that non-VA physician has referred the individual to VA for medical care.

17. VA may disclose records to the National Archives and Records Administration and the General Services Administration in records management inspections and other activities conducted under Title 44.

18. VA may disclose health care information concerning a non-judicially declared incompetent patient to a third party upon the written authorization of the patient's next of kin in order for the patient or, consistent with the best interest of the patient, a member of the patient's family, to receive a benefit to which the patient or family member is entitled or to arrange for the patient's discharge from a VA medical facility. Sufficient information to make an informed determination will be made available to such next of kin. If the patient's next of kin is not reasonably accessible, the chief of staff, director, or designee of the custodial VA medical facility may make the disclosure for these purposes.

19. VA may disclose information to a Federal agency, a state or local government licensing board, and/or the Federation of State Medical Boards or a similar non-governmental entity that maintains records concerning individuals' employment histories or concerning the issuance, retention, or revocation of licenses, certifications, or registration necessary to practice an occupation, profession, or specialty, to inform the entity about the health care practices of a terminated, resigned, or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

20. VA may disclose information maintained in connection with the performance of any program or activity relating to infection with the Human Immunodeficiency Virus (HIV) to a Federal, State, or local public health authority that is 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 the law. The person to whom information is disclosed, under 38 U.S.C. 7332(b)(2)(C), should be advised that they shall not re-disclose or use such information for a purpose other than that for which the disclosure was made. The disclosure of patient name and address under this routine use must comply with the provisions of 38 U.S.C. 5701(f)(2).

21. Information indicating that a patient or subject is infected with the Human Immunodeficiency Virus (HIV) may be disclosed by a physician or professional counselor to the spouse of the patient or subject, to an individual with whom the patient or subject has a meaningful relationship, or to an individual whom the patient or subject has during the process of professional counseling or of testing to determine whether the patient or subject is infected with the virus, identified as being a sexual partner of the patient or subject. Disclosures may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject 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. Such disclosures should, to the extent feasible, be made by the patient's or subject's treating physician or professional counselor. Before any patient or subject gives consent to being tested for the HIV, as part of pre-testing counseling, the patient or subject must be informed fully about these notification procedures.

22. VA may disclose information, including name, address, social security number, and other information as is reasonably necessary to identify an individual, to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/re-privileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/re-privileging, retention, or termination of the applicant or employee.

23. VA may disclose relevant information to the National Practitioner Data Bank and/or State Licensing Board in the state(s) in which a practitioner is licensed, the VA facility is located, and/or an act or omission occurred upon which a medical malpractice claim was based, when VA reports information concerning: (a) Any payment for the benefit of a physician, dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice, if an appropriate determination is made in accordance with Department policy that payment was related to substandard care, professional incompetence or professional misconduct on the part of the individual; (b) a final decision which relates to possible incompetence or improper professional conduct that adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days; or (c) the surrender of clinical privileges or any restriction of such privileges by a physician or dentist, either while under investigation by the health care entity relating to possible incompetence or improper professional conduct. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

24. VA may disclose relevant health care information to a state veterans home for the purpose of medical treatment and/or follow-up at the state home when VA makes payment of a per diem rate to the state home for the patient receiving care at such home, and the patient receives VA medical care.

25. VA may disclose relevant health care information to (a) a Federal agency or non-VA health care provider or institution when VA refers a patient for hospital or nursing home care or medical services, or authorizes a patient to obtain non-VA medical services, and the information is needed by the Federal agency or non-VA institution or provider to perform the services, or (b) a Federal agency or a non-VA hospital (Federal, State and local, public, or private) or other medical installation having hospital facilities, blood banks, or similar institutions, medical schools or clinics, or other groups or individuals that have contracted or agreed to provide medical services or share the use of medical resources under the provisions of 38 U.S.C. 513, 7409, 8111, or 8153, when treatment is rendered by VA under the terms of such contract or agreement, or the issuance of an authorization, and the information is needed for purposes of medical treatment and/or follow-up, determining entitlement to a benefit, or recovery of the costs of the medical care.

26. VA may disclose health care information for program review

purposes and the seeking of accreditation and/or certification to survey teams of the Joint Commission (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accrediting agencies or boards with which VA has a contract or agreement to conduct such reviews, but only to the extent that the information is necessary and relevant to the review.

27. VA may disclose relevant health care information to a non-VA nursing home facility that is considering the patient for admission, when information concerning the individual's medical care is needed for the purpose of preadmission screening under 42 CFR 483.20(f), to identify patients who are mentally ill or mentally retarded so they can be evaluated for appropriate placement.

28. VA may disclose information which relates to the performance of a health care student or provider to a medical or nursing school or other health care related training institution, or other facility with which VA has an affiliation, sharing agreement, contract, or similar arrangement, when the student or provider is enrolled at or employed by the school, training institution, or other facility, and the information is needed for personnel management, rating, and/or evaluation purposes.

29. VA may disclose relevant health care information to individuals, organizations, and private or public agencies with which VA has a contract or sharing agreement for the provision of health care or administrative services.

30. VA may disclose identifying information, including social security number of a veteran, spouse, and dependent, to other Federal agencies for purposes of conducting computer matches to obtain information to determine, or to verify eligibility of veterans who are receiving VA medical care under Title 38.

31. VA may disclose the name and social security number of a veteran, spouse, and dependent, and other identifying information as is reasonably necessary, to the Social Security Administration, Department of Health and Human Services (HHS), for the purpose of conducting a computer match to obtain information to validate the social security numbers maintained in VA records.

32. VA may disclose the patient's name and relevant health care information concerning an adverse drug reaction to the Food and Drug Administration (FDA), HHS, for purposes of quality of care management, including detection, treatment, monitoring, reporting, analysis, and follow-up actions relating to adverse drug reactions.

33. VA may disclose information to Federal agencies and government-wide third-party insurers responsible for payment of the cost of medical care for the patients, in order for VA to seek recovery of the medical care costs. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

34. VA may disclose information pursuant to 38 U.S.C. 7464, and notwithstanding §§ 5701 and 7332, to a former VA employee, as well as an authorized representative of the employee, whose case is under consideration by the VA Disciplinary Appeals Board, in connection with the considerations of the Board, to the extent the Board considers appropriate for purposes of the proceedings of the Board in that case, when authorized by the chairperson of the Board.

35. Information that a patient is infected with Hepatitis C may be disclosed by a physician or professional counselor to the spouse, the person or subject with whom the patient has a meaningful relationship, or an individual whom the patient or subject has identified as being a sexual partner of the patient or subject.

36. VA may disclose to the Federal Labor Relations Authority, including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised in matters before the Federal Service Impasses Panel.

37. VA may disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

38. VA may disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, such other functions promulgated in 5 U.S.C. 1205 and 1206, or as otherwise authorized by law.

39. VA may disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices, examinations of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions of the Commission as authorized by law or regulation.

40. VA may disclose relevant health care information to health and welfare agencies, housing resources, and utility companies, possibly to be combined with disclosures to other agencies, in situations where VA needs to act quickly in order to provide basic and/or emergency needs for the patient and patient's family where the family resides with the patient or serves as a caregiver.

41. VA may disclose health care information to funeral directors or representatives of funeral homes in order for them to make necessary arrangements prior to and in anticipation of a patient's death.

42. VA may disclose health care information to the FDA, or a person subject to the jurisdiction of the FDA, with respect to FDA-regulated products for purposes of reporting adverse events, product defects or problems, or biological product deviations; tracking products; enabling product recalls, repairs, or replacement; and/or conducting post marketing surveillance.

43. VA may disclose health care information to a non-VA health care provider, such as private health care providers or hospitals, DoD, or IHS providers, for the purpose of treating VA patients.

44. VA may disclose information to telephone company operators acting in their capacity to facilitate phone calls for hearing impaired individuals, such as patients, patients' family members, or non-VA providers, using telephone devices for the hearing impaired, including Telecommunications Device for the Deaf (TDD) or Text Telephones (TTY).

45. VA may disclose information to any Federal, State, local, tribal, or foreign law enforcement agency in order to report a known fugitive felon, in compliance with 38 U.S.C. 5313B(d).

46. Relevant health care information may be disclosed by VA employees who are designated requesters (individuals who have completed a course offered or approved by an Organ Procurement Organization), or their designees, for the purpose of determining suitability of a patient's organs or tissues for organ donation to an organ procurement organization, a designated requester who is not a VA employee, or their designees acting on behalf of local organ procurement organizations.

47. VA may disclose relevant heath care information to DoD, or its components, as necessary in addressing the transition, health care, benefits, and administrative support needs of or for wounded, ill, and injured active duty service members or reserve components, veterans, and their beneficiaries.

48. VA may disclose information to other Federal agencies in order to assist those agencies in preventing, detecting, and responding to possible fraud or abuse by individuals in their operations and programs.

49. VA may, on its own initiative, disclose any information to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to report or respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

50. VA may disclose information to any third party or Federal agency, including contractors to those parties, who are responsible for payment of the cost of medical care for the identified patients, in support of VA recovery of medical care costs or for any activities related to payment of medical care costs. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

51. VA may disclose relevant information to a quality review and/or peer review organization in connection with the audit of claims or other review activities to determine quality of care or compliance with professionally accepted claims processing standards.

52. VA may disclose health care information as deemed necessary and proper to Federal, State, and local government agencies, and national health organizations in order to assist in the development of programs that will be beneficial to claimants, protect their rights under law, and ensure that they are receiving all benefits to which they are entitled.

53. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in pending or reasonably anticipated litigation against the individual regarding health care provided during the period of his or her employment or contract with VA.

54. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in defense or reasonable anticipation of a tort claim, litigation, or other administrative or judicial proceeding involving VA when the Department requires information or consultation assistance from the former employee or contractor regarding health care provided during the period of his or her employment or contract with VA.

55. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with or in consideration of the reporting of:

(a) Any payment for the benefit of the former VA employee or contractor that was made as the result of a settlement or judgment of a claim of medical malpractice, if an appropriate determination is made in accordance with Department policy that payment was related to substandard care, professional incompetence, or professional misconduct on the part of the individual;

(b) A final decision which relates to possible incompetence or improper professional conduct that adversely affects the former employee's or contractor's clinical privileges for a period longer than 30 days; or

(c) The former employee's or contractor's surrender of clinical privileges or any restriction of such privileges while under investigation by the health care entity relating to possible incompetence or improper professional conduct to the National Practitioner Data Bank or the state licensing board in any state in which the individual is licensed, the VA facility is located, or an act or omission occurred upon which a medical malpractice claim was based.

56. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with or in consideration of reporting that the individual's professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients, to a Federal agency, a State or local government licensing board, or the Federation of State Medical Boards or a similar non-governmental entity which maintains records concerning individuals' employment histories or concerning the issuance, retention, or revocation of licenses, certifications, or registration necessary to practice an occupation, profession, or specialty.

57. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with investigations by the Equal Employment Opportunity Commission pertaining to alleged or possible discrimination practices, examinations of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

58. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in proceedings before the Merit Systems Protection Board or the Office of the Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as otherwise authorized by law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, microfilm, electronic media including images and scanned documents, or laser optical media in the consolidated health record at the health care facility where care was rendered, in the VA Health Data Repository, and at Federal Record Centers. In most cases, copies of back-up computer files are maintained at off-site locations. Subsidiary record information is maintained at the various respective services within the health care facility (*e.g.*, pharmacy, fiscal, dietetic, clinical laboratory, radiology, social work, psychology) and by individuals, organizations, and/or agencies with whom VA has a contract or agreement to perform such services, as the VA may deem practicable.

Paper records are currently being relocated from Federal record centers to the VA Records Center and Vault. It is projected that all paper records will be stored at the VA Records Center and Vault by the end of the calendar year 2004.

RETRIEVABILITY:

Records are retrieved by name, social security number or other assigned identifiers of the individuals to whom they pertain.

SAFEGUARDS:

1. Access to working spaces and patient medical record storage areas in VA health care facilities is restricted to authorized VA employees. Generally, file areas are locked after normal duty hours. Health care facilities are protected from outside access by the Federal Protective Service and/or other security personnel. Access to patient medical records is restricted to VA employees who have a need for the information in the performance of their official duties. Sensitive patient medical records, including employee patient medical records, records of public figures, or other sensitive patient medical records are generally stored in separate locked files or a similar electronically controlled access environment. Strict control measures are enforced to ensure that access to and disclosures from these patient medical records are limited.

2. Access to computer rooms within health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. ADP peripheral devices are generally placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Only authorized VA employees or vendor employees may access information in the system. Access to file information is controlled at two levels: the system recognizes authorized employees by a series of individually unique passwords/codes as a part of each data message, and the employees are limited to only that information in the file that is needed in the performance of their official duties. Information that is downloaded and maintained on personal computers must be afforded similar storage and access protections as the data that is maintained in the original files. Access by remote data users such as Veteran Outreach Centers, Veteran Service Officers (VSO) with power of attorney to assist with claim processing, VBA Regional Office staff for benefit determination and processing purposes, OIG staff conducting official audits or investigations and other authorized individuals is controlled in the same manner.

3. Access to the VA National Data Centers is generally restricted to Center employees, custodial personnel, Federal Protective Service, and other security personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted. Information stored in the computer may be accessed by authorized VA employees at remote locations including VA health care facilities, VA Central Office, Veterans Integrated Service Networks (VISNs), and OIG Central Office and field staff. Access is controlled by individually unique passwords/codes that must be changed periodically by the employee.

4. Access to the VA Health Data Repository (HDR), located at the VA National Data Centers, is generally restricted to Center employees, custodial personnel, Federal Protective Service, and other security personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted. Information stored in the computer may be accessed by authorized VA employees at remote locations including VA health care facilities, VA Central Office, VISNs, and OIG Central Office and field staff. Access is controlled by individually unique passwords/codes that must be changed periodically by the employee.

5. Access to records maintained at VA Central Office, the VA Boston Development Center, Chief Information Office Field Offices, and VISNs is restricted to VA employees who have a need for the information in the performance of their official duties. Access to information stored in electronic format is controlled by individually unique passwords/codes. Records are maintained in manned rooms during working hours. The facilities are protected from outside access during non-working hours by the Federal Protective Service or other security personnel.

6. Computer access authorizations, computer applications available and used, information access attempts, and frequency and time of use are recorded.

RETENTION AND DISPOSAL:

In accordance with the records disposition authority approved by the Archivist of the United States, paper records and information stored on electronic storage media are maintained for seventy-five (75) years after the last episode of patient care and then destroyed/or deleted.

SYSTEM MANAGER(S) AND ADDRESS:

Patient Medical Records: Director, Information Assurance (19F), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Health Data Repository: Director, Health Data Systems (19–SL), Department of Veterans Affairs, 295 Chipeta Way, Salt Lake City, UT 84108.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to review the contents of such record, should submit a written request or apply in person to the last VA health care facility where care was rendered. Addresses of VA health care facilities may be found in VA Appendix 1 of the Biennial Publication of Privacy Act Issuances. All inquiries must reasonably describe the portion of the medical record involved and the place and approximate date that medical care was provided. Inquiries should include the patient's full name, social security number, and return address.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of VA medical records may write, call, or visit the last VA facility where medical care was provided.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

The patient, family members, friends, or accredited representatives, employers; military service departments; health insurance carriers; private medical facilities and health care professionals; state and local agencies; other Federal agencies; VA Regional Offices, Veterans Benefits Administration automated record systems (including Veterans and Beneficiaries Identification and Records Location Subsystem-VA (38VA23) and the Compensation, Pension, Education and Rehabilitation Records-VA (58VA21/22/28); and various automated systems providing clinical and managerial support at VA health care facilities.

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