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AMENDMENTS

2006—Pub. L. 109-461, title IX, §902(b), Dec. 22, 2006, 120 Stat. 3460, added item for subchapter III and items 5721 to 5728.

1991—Pub. L. 102-54, §14(d)(5)(B), (6)(C), June 13, 1991, 105 Stat. 286, amended table of sections at beginning of chapter as in effect immediately before the enactment of Pub. L. 102-40 by substituting “subpoenas” for “subpenas” in item 3311 and “subpoena” for “subpena” in item 3313.

Pub. L. 102-40, title IV, §402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3301 to 3313 as 5701 to 5713, respectively.

1980—Pub. L. 96-385, title V, §505(b), Oct. 7, 1980, 94 Stat. 1537, added item 3305.

SUBCHAPTER I—RECORDS

§ 5701. Confidential nature of claims

(a) All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Secretary and the names and addresses of present or former members of the Armed Forces, and their dependents, in the possession of the Department shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section.

(b) The Secretary shall make disclosure of such files, records, reports, and other papers and documents as are described in subsection (a) of this section as follows:

(1) To a claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant alone when, in the judgment of the Secretary, such disclosure would not be injurious to the physical or mental health of the claimant and to an independent medical expert or experts for an advisory opinion pursuant to section 5109 or 7109 of this title.

(2) When required by process of a United States court to be produced in any suit or proceeding therein pending.

(3) When required by any department or other agency of the United States Government.

(4) In all proceedings in the nature of an inquest into the mental competency of a claimant.

(5) In any suit or other judicial proceeding when in the judgment of the Secretary such disclosure is deemed necessary and proper.

(6) In connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by the Secretary when in the judgment of the Secretary such disclosure is deemed necessary and proper.

(c)(1) The amount of any payment made by the Secretary to any person receiving benefits under

a program administered by the Secretary shall be made known to any person who applies for such information.

(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Secretary in connection with any loan guaranteed, insured, or made under chapter 37 of this title shall be made available to any person who applies for such report or certificate.

(3) Subject to the approval of the President, the Secretary may publish at any time and in any manner any or all information of record pertaining to any claim filed with the Secretary if the Secretary determines that the public interest warrants or requires such publication.

(d) The Secretary as a matter of discretion may authorize an inspection of Department records by duly authorized representatives of recognized organizations.

(e) Except as otherwise specifically provided in this section with respect to certain information, the Secretary may release information, statistics, or reports to individuals or organizations when in the Secretary's judgment such release would serve a useful purpose.

(f) The Secretary may, pursuant to regulations the Secretary shall prescribe, release the name or address, or both, of any present or former member of the Armed Forces, or a dependent of a present or former member of the Armed Forces, (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title, or (2) 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 agency or instrumentality has made a written request that such name or address be provided for a purpose authorized by law. Any organization or member thereof or other person who, knowing that the use of any name or address released by the Secretary pursuant to the preceding sentence is limited to the purpose specified in such sentence, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than \$5,000 in the case of a first offense and not more than \$20,000 in the case of any subsequent offense.

(g)(1) Subject to the provisions of this subsection, and under regulations which the Secretary shall prescribe, the Secretary may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces, to a consumer reporting agency if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

(2) A release of information under paragraph (1) of this subsection concerning a person described in such paragraph may be made for the purpose of—

(A) locating such a person—

(i) who has been administratively determined to be indebted to the United States by virtue of the person's participation in a benefits program administered by the Secretary; or

(ii) if the Secretary has determined under such regulations that (I) it is necessary to locate such person in order to conduct a study pursuant to section 527 of this title or a study required by any other provision of law, and (II) all reasonable steps have been taken to assure that the release of such information to such reporting agency will not have an adverse effect on such person; or

(B) obtaining a consumer report in order to assess the ability of a person described in subparagraph (A)(i) of this paragraph to repay the indebtedness of such person to the United States, but the Secretary may release the name or address of such person for the purpose stated in this clause only if the Secretary determines under such regulations that such person has failed to respond appropriately to administrative efforts to collect such indebtedness.

(3) The Secretary may also release to a consumer reporting agency, for the purposes specified in subparagraph (A) or (B) of paragraph (2) of this subsection, such other information as the Secretary determines under such regulations is reasonably necessary to identify a person described in such paragraph, except that the Secretary may not release to a consumer reporting agency any information which indicates any indebtedness on the part of such person to the United States or any information which reflects adversely on such person. Before releasing any information under this paragraph, the Secretary shall, under such regulations, take reasonable steps to provide for the protection of the personal privacy of persons about whom information is proposed to be released under this paragraph.

(4)(A) If the Secretary determines, under regulations which the Secretary shall prescribe, that a person described in paragraph (1) of this subsection has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness of such person described in paragraph (2)(A)(i) of this subsection, the Secretary may release information concerning the indebtedness, including the name and address of such person, to a consumer reporting agency for the purpose of making such information available for inclusion in consumer reports regarding such person and, if necessary, for the purpose of locating such person, if—

(i) the Secretary has (I) made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 5302 of this title, (II) afforded such person a reasonable opportunity to exercise such rights, and (III) made a determination with respect to any such dispute or request; and

(ii) thirty calendar days have elapsed after the day on which the Secretary has made a determination that reasonable efforts have been made to notify such person (I) that the Secretary intends to release such information for such purpose or purposes, and (II) that, upon the request of such person, the Secretary shall inform such person of whether such informa-

tion has been so released and of the name and address of each consumer reporting agency to which such information was released by the Secretary and of the specific information so released.

(B) After release of any information under subparagraph (A) of this paragraph concerning the indebtedness of any person, the Secretary shall promptly notify—

(i) each consumer reporting agency to which such information has been released by the Secretary; and

(ii) each consumer reporting agency described in subsection (i)(3)(B)(i) of this section to which such information has been transmitted by the Secretary through a consumer reporting agency described in subsection (i)(3)(B)(ii)(I) of this section,

of any substantial change in the status or amount of such indebtedness and, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly verify or correct, as appropriate, such information. The Secretary shall also, after the release of such information, inform such person, upon the request of such person, of the name and address of each consumer reporting agency described in clause (i) or (ii) of this subparagraph to which such information was released or transmitted by the Secretary and of the specific information so released or transmitted.

(h)(1) Under regulations which the Secretary shall prescribe, the Secretary may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces (and other information relating to the identity of such person), to any person in a category of persons described in such regulations and specified in such regulations as a category of persons to whom such information may be released, if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

(2) A release of information under paragraph (1) of this subsection may be made for the purpose of—

(A) determining the creditworthiness, credit capacity, income, or financial resources of a person who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Secretary for the purchase of property acquired by the Secretary under section 3720(a)(5) of this title;

(B) verifying, either before or after the Secretary has approved a person's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Secretary regarding the creditworthiness, credit capacity, income, or financial resources of such person;

(C) offering for sale or other disposition by the Secretary, pursuant to section 3720 of this title, any loan or installment sale contract owned or held by the Secretary; or

(D) providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Secretary

promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made.

(i)(1) No contract entered into for any of the purposes of subsection (g) or (h) of this section, and no action taken pursuant to any such contract or either such subsection, shall result in the application of section 552a of title 5 to any consumer reporting agency or any employee of a consumer reporting agency.

(2) The Secretary shall take reasonable steps to provide for the protection of the personal privacy of persons about whom information is disclosed under subsection (g) or (h) of this section.

(3) For the purposes of this subsection and of subsection (g) of this section—

(A) The term “consumer report” has the meaning provided such term in subsection (d) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)).

(B) The term “consumer reporting agency” means—

(i) a consumer reporting agency as such term is defined in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or

(ii) any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this paragraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies.

(j) Except as provided in subsection (i)(1) of this section, any disclosure made pursuant to this section shall be made in accordance with the provisions of section 552a of title 5.

(k)(1)(A) Under regulations that the Secretary shall prescribe, the Secretary may disclose the name and address of any individual described in subparagraph (C) to an entity described in subparagraph (B) in order to facilitate the determination by such entity whether the individual is, or after death will be, a suitable organ, tissue, or eye donor if—

(i) the individual is near death (as determined by the Secretary) or is deceased; and

(ii) the disclosure is permitted under regulations promulgated pursuant to section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(B) An entity described in this subparagraph is—

(i) an organ procurement organization, including eye and tissue banks; or

(ii) an entity that the Secretary has determined—

(I) is substantially similar in function, professionalism, and reliability to an organ procurement organization; and

(II) should be treated for purposes of this subsection in the same manner as an organ procurement organization.

(C) An individual described in this subparagraph is—

(i) a veteran; or

(ii) a dependent of veteran.

(2) In this subsection, the term “organ procurement organization” has the meaning given the term “qualified organ procurement organization” in section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)).

(I) Under regulations the Secretary shall prescribe, the Secretary may disclose information about a veteran or the dependent of a veteran to a State controlled substance monitoring program, including a program approved by the Secretary of Health and Human Services under section 3990 of the Public Health Service Act (42 U.S.C. 280g-3), to the extent necessary to prevent misuse and diversion of prescription medicines.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1236, §3301; Pub. L. 87-671, §2, Sept. 19, 1962, 76 Stat. 557; Pub. L. 91-24, §11, June 11, 1969, 83 Stat. 34; Pub. L. 92-540, title IV, §412, Oct. 24, 1972, 86 Stat. 1093; Pub. L. 94-321, §1(a), June 29, 1976, 90 Stat. 713; Pub. L. 94-581, title II, §210(b), Oct. 21, 1976, 90 Stat. 2863; Pub. L. 96-466, title VI, §606, Oct. 17, 1980, 94 Stat. 2212; Pub. L. 101-94, title III, §302(a), Aug. 16, 1989, 103 Stat. 628; renumbered §5701 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §§2(c)(6), 4(a)(1), (2)(A)(xi), (3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 402-406; Pub. L. 107-14, §8(a)(13), June 5, 2001, 115 Stat. 35; Pub. L. 109-461, title II, §204(a), Dec. 22, 2006, 120 Stat. 3411; Pub. L. 112-74, div. H, title II, §230(a), Dec. 23, 2011, 125 Stat. 1159.)

REFERENCES IN TEXT

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (k)(1)(A)(ii), is section 264 of title II of Pub. L. 104-191, Aug. 21, 1996, 110 Stat. 2033, which is set out as a note under section 1320d-2 of Title 42, The Public Health and Welfare.

AMENDMENTS

2011—Subsec. (l). Pub. L. 112-74 added subsec. (l).
 2006—Subsec. (k). Pub. L. 109-461 added subsec. (k).
 2001—Subsec. (g)(2)(B). Pub. L. 107-14 substituted “subparagraph (A)(i)” for “clause (A)(i)”.
 Subsec. (g)(3). Pub. L. 107-14 substituted “subparagraph (A) or (B)” for “clause (A) or (B)”.
 1991—Pub. L. 102-40, §402(b)(1), renumbered section 3301 of this title as this section.
 Subsec. (a). Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans’ Administration”.
 Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.
 Subsec. (b). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in introductory provisions and in pars. (1), (5), and (6).
 Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration” in par. (6).
 Pub. L. 102-40, §402(d)(1), substituted “5109” and “7109” for “3009” and “4009”, respectively, in par. (1).
 Subsec. (c)(1). Pub. L. 102-83, §4(a)(2)(A)(xi), substituted “Secretary” for first reference to “Veterans’ Administration”.
 Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.
 Subsec. (c)(2). Pub. L. 102-83, §4(a)(2)(A)(xi), substituted “Secretary” for “Veterans’ Administration”.
 Subsec. (c)(3). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places.

Pub. L. 102-83, §4(a)(2)(A)(xi), substituted "Secretary" for "Veterans' Administration" after "with the".

Subsec. (d). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (e). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" and "Secretary's" for "Administrator's".

Subsec. (f). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (g)(1). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Subsec. (g)(2)(A)(i). Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsec. (g)(2)(A)(ii). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Pub. L. 102-83, §2(c)(6), substituted "section 527" for "section 219".

Subsec. (g)(2)(B), (3), (4). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (g)(4)(A)(i). Pub. L. 102-40, §402(d)(1), substituted "5302" for "3102".

Subsec. (h). Pub. L. 102-83, §5(c)(1), substituted "3720(a)(5)" for "1820(a)(5)" in par. (2)(A) and "3720" for "1820" in par. (2)(C).

Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (i)(2). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1989—Subsec. (b)(1). Pub. L. 101-94 substituted "section 3009 or 4009" for "section 4009".

1980—Subsec. (a). Pub. L. 96-466, §606(a), substituted "members of the Armed Forces" for "personnel of the armed services".

Subsec. (b)(6). Pub. L. 96-466, §606(b), added par. (6).

Subsec. (c). Pub. L. 96-466, §606(c), designated existing provisions as pars. (1) and (3) with minor changes in language, and in par. (1) as so designated, substituted reference to the amount of any payment made by the Veterans' Administration to any person receiving benefits under a program administered by the Veterans' Administration for reference to the amount of pension, compensation, or dependency and indemnity compensation of any beneficiary, and added par. (2).

Subsec. (f). Pub. L. 96-466, §606(d), substituted "name or address, or both, of any present or former member of the Armed Forces, or a dependent of a present or former member of the Armed Forces" for "names or addresses, or both, of any present or former members of the Armed Forces, and/or their dependents" and "written request that such name or address" for "written request that such names or addresses".

Subsecs. (g) to (i). Pub. L. 96-466, §606(e), added subsecs. (g) to (i). Former subsec. (g) redesignated (j).

Subsec. (j). Pub. L. 96-466, §606(e), (f), redesignated former subsec. (g) as (j) and substituted "Except as provided in subsection (i)(1) of this section, any" for "Any".

1976—Subsec. (a). Pub. L. 94-321, §1(a)(1), (2), designated introductory par. as subsec. (a) and as so designated, substituted "provided in this section." for "follows:".

Subsec. (b). Pub. L. 94-321, §1(a)(2), added subsec. (b). Pars. (1) to (5), formerly set out following introductory par., became part of such subsec. (b).

Subsec. (b)(1). Pub. L. 94-581, §210(b)(1), substituted "claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant alone" for "claimant or his duly authorized agent or representative as to matters concerning himself alone".

Subsec. (c). Pub. L. 94-321, §1(a)(3), redesignated par. (6) as subsec. (c).

Subsec. (d). Pub. L. 94-581, §210(b)(2), substituted "as a matter of discretion" for "in his discretion".

Pub. L. 94-321, §1(a)(3), redesignated par. (7) as subsec. (d).

Subsec. (e). Pub. L. 94-581, §210(b)(3), substituted "in the Administrator's judgment" for "in his judgment".

Pub. L. 94-321, §1(a)(3), (4), redesignated par. (8) as subsec. (e) and substituted "Except as otherwise specifically provided in this section with respect to certain information, the" for "The".

Subsec. (f). Pub. L. 94-321, §1(a)(3), (5), redesignated par. (9) as subsec. (f) and inserted provision relating to the release of information pursuant to this subsection to criminal or civil law enforcement governmental agencies and increased the penalty for misuse of such information to the status of a misdemeanor, with a fine of not more than \$5,000 for the first offense and not more than \$20,000 for any subsequent offense.

Subsec. (g). Pub. L. 94-321, §1(a)(5), added subsec. (g).

1972—Pub. L. 92-540 in introductory provision inserted reference to the names and addresses of present or former personnel of the armed forces, and their dependents, in the possession of the Veterans' Administration, and added par. (9).

1969—Par. (1). Pub. L. 91-24 substituted "the claimant and to an independent" for "the claimant. And to an independent".

1962—Par. (1). Pub. L. 87-671 inserted provisions authorizing disclosure to an independent medical expert or experts for an advisory opinion pursuant to section 4009 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-94, title III, §302(c), Aug. 16, 1989, 103 Stat. 628, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 4092 [now 7292] of this title] shall take effect as if included in the Veterans' Judicial Review Act [div. A of Pub. L. 100-687]."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96-466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

Pub. L. 94-321, §1(b), June 29, 1976, 90 Stat. 714, provided that: "The amendments made by subsection (a) of this section with respect to subsection (f) (as redesignated by subsection (a)(3) of this section) of section 3301 [now 5701] of title 38, United States Code (except for the increase in criminal penalties for a violation of the second sentence of such subsection (f)), shall be effective with respect to names or addresses released on and after October 24, 1972."

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-671, §4, Sept. 19, 1962, 76 Stat. 557, provided that: "The amendments made by this Act [enacting section 4009 [now 7109] of this title and amending this section] shall be effective January 1, 1963."

REGULATIONS

Pub. L. 109-461, title II, §204(c), Dec. 22, 2006, 120 Stat. 3411, provided that: "The Secretary of Veterans Affairs shall prescribe regulations under subsection (k) of section 5701 of title 38, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act [Dec. 22, 2006]."

§ 5702. Furnishing of records

(a) Any person desiring a copy of any record, paper, and so forth, in the custody of the Secretary that may be disclosed under section 5701 of this title must submit to the Secretary an ap-