

CHAPTER 57—RECORDS AND INVESTIGATIONS

SUBCHAPTER I—RECORDS

- Sec.
- 5701. Confidential nature of claims.
- 5702. Furnishing of records.
- 5703. Certification of records of District of Columbia.
- 5704. Transcript of trial records.
- 5705. Confidentiality of medical quality-assurance records.
- 5706. Veterans identification card.

SUBCHAPTER II—INVESTIGATIONS

- 5711. Authority to issue subpoenas.
- 5712. Validity of affidavits.
- 5713. Disobedience to subpoena.

SUBCHAPTER III—INFORMATION SECURITY

- 5721. Purpose.
- 5722. Policy.
- 5723. Responsibilities.
- 5724. Provision of credit protection and other services.
- 5725. Contracts for data processing or maintenance.
- 5726. Reports and notice to Congress on data breaches.
- 5727. Definitions.
- 5728. Authorization of appropriations.

AMENDMENTS

2015—Pub. L. 114-31, §2(c), July 20, 2015, 129 Stat. 430, added item 5706.

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.

UPDATING DEPENDENT INFORMATION

Pub. L. 115-407, title V, §502, Dec. 31, 2018, 132 Stat. 5376, provided that: “The Secretary of Veterans Affairs shall make such changes to such information technology systems of the Department of Veterans Affairs, including the eBenefits system or successor system, as may be necessary so that whenever the Secretary records in such systems information about a dependent of a person, the person is able to review and revise such information.”

OVERSIGHT OF ELECTRONIC HEALTH RECORD MODERNIZATION PROGRAM

Pub. L. 115-407, title V, §503, Dec. 31, 2018, 132 Stat. 5376, provided that:

“(a) PROGRAM DOCUMENTS.—Not later than 30 days after the date of the enactment of this Act [Dec. 31, 2018], the Secretary of Veterans Affairs shall submit to the appropriate congressional committees the following documents concerning the Electronic Health Record Modernization Program:

- “(1) Integrated Master Plan.
- “(2) Integrated Master Schedule.
- “(3) Program Management Plan.
- “(4) Annual and lifecycle cost estimates, including, at a minimum, cost elements relating to—
 - “(A) Federal Government labor;
 - “(B) contractor labor;
 - “(C) hardware;

- “(D) software; and
- “(E) testing and evaluation.
- “(5) Cost baseline.
- “(6) Risk Management Plan.
- “(7) Health IT Strategic Architecture Plan.
- “(8) Transition Plan for implementing updated architecture.
- “(9) Data Migration Plan.
- “(10) System and Data Security Plan.
- “(11) Application Implementation Plan.
- “(12) System Design Documents.
- “(13) Legacy Veterans Information Systems and Technology Architecture Standardization, Security Enhancement, and Consolidation Project Plan.
- “(14) Health Data Interoperability Management Plan.

“(15) Community Care Vision and Implementation Plan, including milestones and a detailed description of how complete interoperability with non-Department health care providers will be achieved.

“(b) QUARTERLY UPDATES.—Not later than 30 days after the end of each fiscal quarter during the period beginning with the fiscal quarter in which this Act is enacted and ending on the date on which the Electronic Health Record Modernization Program is completed, the Secretary shall submit to the appropriate congressional committees the most recent updated versions, if any exist, of the following documents:

- “(1) Integrated Master Schedule.
- “(2) Program Management Plan, including any written Program Management Review material developed for the Program Management Plan during the fiscal quarter covered by the submission.
- “(3) Each document described in subsection (a)(4).
- “(4) Performance Baseline Report for the fiscal quarter covered by the submission or for the fiscal quarter ending the fiscal year prior to the submission.
- “(5) Budget Reconciliation Report.
- “(6) Risk Management Plan and Risk Register.

“(c) CONTRACTS.—Not later than 5 days after awarding a contract, order, or agreement, including any modifications thereto, under the Electronic Health Record Modernization Program, the Secretary shall submit to the appropriate congressional committees a copy of the entire such contract, order, agreement, or modification.

- “(d) NOTIFICATION.—
- “(1) REQUIREMENT.—Not later than 10 days after an event described in paragraph (2) occurs, the Secretary shall notify the appropriate congressional committees of such occurrence, including a description of the event and an explanation for why such event occurred.
- “(2) EVENT DESCRIBED.—An event described in this paragraph is any of the following events regarding the Electronic Health Record Modernization Program:

- “(A) The delay of any milestone or deliverable by 30 or more days.
- “(B) A request for equitable adjustment, equitable adjustment, [sic] or change order exceeding \$1,000,000 (as such terms are defined in the Federal Acquisition Regulation).
- “(C) The submission of any protest, claim, or dispute, and the resolution of any protest, claim, or dispute (as such terms are defined in the Federal Acquisition Regulation).
- “(D) A loss of clinical or other data.
- “(E) A breach of patient privacy, including any—
 - “(i) disclosure of protected health information that is not permitted under regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 42 U.S.C. 1320d-2 note); and
 - “(ii) breach of sensitive personal information (as defined in section 5727 of title 38, United States Code).

“(e) DEFINITIONS.—In this section:

- “(1) The term ‘appropriate congressional committees’ means—

“(A) the Committees on Veterans' Affairs of the House of Representatives and the Senate; and

“(B) the Committees on Appropriations of the House of Representatives and the Senate.

“(2) The term ‘Electronic Health Record Modernization Program’ means—

“(A) any activities by the Department of Veterans Affairs to procure or implement an electronic health or medical record system to replace any or all of the Veterans Information Systems and Technology Architecture, the Computerized Patient Record System, the Joint Legacy Viewer, or the Enterprise Health Management Platform; and

“(B) any contracts or agreements entered into by the Secretary of Veterans Affairs to carry out, support, or analyze the activities under subparagraph (A).”

DISCONTINUATION OF USE OF SOCIAL SECURITY NUMBERS TO IDENTIFY INDIVIDUALS IN DEPARTMENT OF VETERANS AFFAIRS INFORMATION SYSTEMS

Pub. L. 116-94, div. F, title II, §238, Dec. 20, 2019, 133 Stat. 2804, provided that:

“(a) Except as provided in subsection (b), the Secretary of Veterans Affairs, in consultation with the Secretary of Defense and the Secretary of Labor, shall discontinue using Social Security account numbers to identify individuals in all information systems of the Department of Veterans Affairs as follows:

“(1) For all veterans submitting to the Secretary of Veterans Affairs new claims for benefits under laws administered by the Secretary, not later than 5 years after the date of the enactment of this Act [Dec. 20, 2019].

“(2) For all individuals not described in paragraph (1), not later than 8 years after the date of the enactment of this Act.

“(b) The Secretary of Veterans Affairs may use a Social Security account number to identify an individual in an information system of the Department of Veterans Affairs if and only if the use of such number is required to obtain information the Secretary requires from an information system that is not under the jurisdiction of the Secretary.”

Similar provisions were contained in the following acts:

Pub. L. 115-244, div. C, title II, §239, Sept. 21, 2018, 132 Stat. 2972.

Pub. L. 115-141, div. J, title II, §240, Mar. 23, 2018, 132 Stat. 822.

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 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 Sec-