

## 42 U.S. Code § 290dd-2 - Confidentiality of records

### **(a) REQUIREMENT**

Records of the identity, diagnosis, prognosis, or [treatment](#) of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, [treatment](#), rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any [department](#) or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b).

### **(b) PERMITTED DISCLOSURE**

#### **(1) CONSENT**

The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under [regulations](#) prescribed pursuant to subsection (g).

**(2) METHOD FOR DISCLOSURE** Whether or not the patient, with respect to whom any given record referred to in subsection (a) is maintained, gives written consent, the content of such record may be disclosed as follows:

#### **(A)**

To medical personnel to the extent necessary to meet a bona fide medical emergency.

#### **(B)**

To qualified personnel for the purpose of conducting scientific [research](#), management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such [research](#), audit, or evaluation, or otherwise disclose patient identities in any manner.

#### **(C)**

If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good [cause](#) therefor, including the need to avert a substantial risk of death or serious bodily harm. In assessing good [cause](#) the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the [physician](#)-patient relationship, and to the [treatment](#) services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

### **(c) USE OF RECORDS IN CRIMINAL PROCEEDINGS**

Except as authorized by a court order granted under subsection (b)(2)(C), no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

**(d)APPLICATION**

The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when such individual ceases to be a patient.

**(e)NONAPPLICABILITY**The prohibitions of this section do not apply to any interchange of records—

**(1)**

within the [Uniformed Services](#) or within those components of the Department of Veterans Affairs furnishing health care to veterans; or

**(2)**

between such components and the [Uniformed Services](#).

The prohibitions of this section do not apply to the reporting under [State](#) law of incidents of suspected child abuse and neglect to the appropriate [State](#) or local authorities.

**(f)PENALTIES**

Any [person](#) who violates any provision of this section or any regulation issued pursuant to this section shall be fined in accordance with title 18.

**(g)REGULATIONS**

Except as provided in subsection (h), the [Secretary](#) shall prescribe [regulations](#) to carry out the purposes of this section.

Such [regulations](#) may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

**(h)APPLICATION TO DEPARTMENT OF VETERANS AFFAIRS**

The [Secretary](#) of Veterans Affairs, acting through the Under [Secretary](#) for Health, shall, to the maximum feasible extent consistent with their responsibilities under title 38, prescribe [regulations](#) making applicable the [regulations](#) prescribed by the Secretary of Health and Human Services under subsection (g) to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing [regulations](#) pursuant to this subsection, the Secretary of Veterans Affairs shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum

possible coordination of the [regulations](#), and the implementation thereof, which they each prescribe.