§ 290dd-2

Confidentiality of records

(a) Requirement

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

(b) Permitted disclosure

(1) Consent

The content of any record referred to in subsection (a) of this section 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) of this section.

(2) Method for disclosure

Whether or not the patient, with respect to whom any given record referred to in sub-
section (a) of this section 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 emer-
cency.

(B) To qualified personnel for the purpose of conducting scientific research, manage-
ment 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 there-
for, including the need to avert a substantial
risk of death or serious bodily harm. In as-
sessing good cause the court shall weigh the
public interest and the need for disclosure
against the injury to the patient, to the phy-
sician-patient relationship, and to the treat-
ment 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 appro-
priate safeguards against unauthorized dis-
closure.

(c) Use of records in criminal proceedings

Except as authorized by a court order granted
under subsection (b)(2)(C) of this section, no
record referred to in subsection (a) of this
section 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 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) of this section, 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) of this section, 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) of this section 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.

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


Pub. L. 102–321 amended section generally, substituting provisions relating to confidentiality of records for provisions relating to admission of alcohol abusers and alcoholics to general hospitals and outpatient facilities.


1976—Subsec. (a). Pub. L. 94–371, § 11(a), inserted “she”, or “or”, “and”, and “or”.

Pub. L. 94–581 provided that subsec. (b)(2), which directed the Administrator of Veteran’s Affairs, through the Chief Medical Director, to prescribe regulations making applicable the regulations prescribed by the Secretary under subsec. (b)(1) to the provision of hospital care, nursing home care, domiciliary care, and medical services under title 38 to veterans suffering from alcohol abuse or alcoholism and to consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribed, was superseded by section 4131 [now 731] et seq. of Title 38, Veterans’ Benefits.

1974—Subsec. (a). Pub. L. 93–282, in revising text, prohibited discrimination because of alcohol abuse, substituted provisions respecting eligibility for admission and treatment based on suffering from medical conditions for former provision based on medical need and ineligibility, because of discrimination, for support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency for former requirement for treatment by a general hospital which received Federal funds, and deleted prohibition against receiving Federal financial assistance for violation of section and for termination of Federal assistance on failure to comply, now incorporated in regulation authorization of subsec. (b) of this section.

Subsec. (b). Pub. L. 93–282 substituted provisions respecting issuance of regulations by the Secretary concerning enforcement procedures and suspension or revocation of Federal support and by the Administrator concerning applicable regulations for veterans, and for coordination of the respective regulations for former provisions respecting judicial review.

**Effective Date of 1992 Amendment**

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

**Effective Date of 1976 Amendment**


**REPORT OF ADMINISTRATOR OF VETERANS’ AFFAIRS TO CONGRESSIONAL COMMITTEES; PUBLICATION IN FEDERAL REGISTER**

Section 121(b) of Pub. L. 93–282, which directed Administrator of Veterans’ Affairs to submit to appropriate committees of House of Representatives and Senate a full report (1) on regulations (including guidelines, policies, and procedures thereunder) he had prescribed pursuant to section 321(b)(2) of Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (former subsec. (b)(2) of...
this section], (2) explaining bases for any inconsistency between such regulations and regulations of Secretary under section 321(b)(1) of such Act [subsec. (b)(1) of this section], (3) on extent, substance, and results of his consultations with Secretary respecting prescribing and implementation of Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determined were necessary and desirable, with Administrator to submit report not later than sixty days after effective date of regulations prescribed by Secretary under such section 321(b)(1) [subsec. (b)(1) of this section], and to publish such report in Federal Register, was characterized by section 111(c)(5) of Pub. L. 94-581 as having been superseded by section 4134 [now 7334] of Title 38, Veterans' Benefits.

§§ 290dd–3 to 290ee–3. Omitted

Codification

Sections 290dd–3 to 290ee–3 were omitted in the general revision of this part by Pub. L. 102–322.


