

## § 310.42

disclosed to a “consumer reporting agency.”

[51 FR 2364, Jan. 16, 1986. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 56 FR 57800, Nov. 14, 1991; 62 FR 26389, May 14, 1997]

### § 310.42 Disclosures to commercial enterprises.

(a) *General policy.* (1) Make releases of personal information to commercial enterprises under the criteria established by the DoD Freedom of Information Program (32 CFR part 286).

(2) The relationship of commercial enterprises to their clients or customers and to the Department of Defense are not changed by this part.

(3) The DoD policy on personal indebtedness for military personnel is contained in 32 CFR part 43a and for civilian employees in the Office of Personnel Management, Federal Personnel Manual (5 CFR part 550).

(b) *Release of personal information.* (1) Any information that must be released under the Freedom of Information (5 U.S.C. 552) may be released to a commercial enterprise without the individual's consent (see paragraph (b) of § 310.41 of this subpart).

(2) Commercial enterprises may present a signed consent statement setting forth specific conditions for release of personal information. Statements such as the following, if signed by the individual, are considered valid:

I hereby authorize the Department of Defense to verify my Social Security Number or other identifying information and to disclose my home address and telephone number to authorized representatives of (name of commercial enterprise) so that they may use this information in connection with my commercial dealings with that enterprise. All information furnished will be used in connection with my financial relationship with (name of commercial enterprise).

(3) When a statement of consent as outlined in paragraph (b)(2) of this section is presented, provide the requested information if its release is not prohibited by some other regulation or statute.

(4) Blanket statements of consent that do not identify specifically the Department of Defense or any of its components, or that do not specify exactly the type of information to be released, may be honored if it is clear

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that the individual in signing the consent statement intended to obtain a personal benefit (for example, a loan to buy a house) and was aware of the type of information that would be sought. Care should be exercised in these situations to release only the minimum amount of personal information essential to obtain the benefit sought.

(5) Do not honor request from commercial enterprises for official evaluation of personal characteristics, such as evaluation of personal financial habits.

### § 310.43 Disclosures to the public from health care records.

(a) *Section applicability.* This section applies to the release of information to the news media or the public concerning persons treated or hospitalized in DoD medical facilities and patients of nonfederal medical facilities for whom the cost of the care is paid by the Department of Defense.

(b) *General disclosure.* Normally, the following may be released without the patient's consent.

(1) Personal information concerning the patient. See 32 CFR part 286, The DoD Freedom of Information Act Program and paragraph (c) of § 310.41.

(2) Medical condition:

(i) Date of admission or disposition;

(ii) The present medical assessment of the individual's condition in the following terms if the medical doctor has volunteered the information:

(A) The individual's condition is presently (stable) (good) (fair) (serious) or (critical), and

(B) Whether the patient is conscious, semiconscious, or unconscious.

(c) *Individual consent.* (1) Detailed medical and other personal information may be released in response to inquiries from the news media and public if the patient has given his or her informed consent to such a release.

(2) If the patient is not conscious or competent, no personal information except that required by the Freedom of Information Act (5 U.S.C. 552) shall be released until there has been enough improvement in the patient to ensure he or she can give informed consent or a guardian has been appointed legally for the patient and the guardian has given consent on behalf of the patient.

(3) The consent described in paragraph (c)(1) of this section regarding patients who are minors must be given by the parent of legal guardian.

(d) *Information that may be released with individual consent.* (1) Any item of personal information may be released, if the patient has given his or her informed consent to its release.

(2) Releasing medical information about patients shall be done with discretion, so as not to embarrass the patient, his or her family, or the Department of Defense, needlessly.

(e) *Disclosures to other government agencies.* This subpart does not limit the disclosures of personal medical information to other government agencies for use in determining eligibility for special assistance or other benefits.

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#### § 310.44 Disclosure accounting.

(a) *Disclosure accountings.* (1) Keep an accurate record of all disclosures made from any system of records except disclosures:

(i) To DoD personnel for use in the performance of their official duties; or  
(ii) Under 32 CFR part 286, The DoD Freedom of Information Program.

(2) In all other cases a disclosure accounting is required even if the individual has consented to the disclosure of the information pertaining to him or her.

(3) Disclosure accountings:

(i) Permit individuals to determine to whom information has been disclosed;

(ii) Enable the activity to notify past recipients of disputed or corrected information (§ 310.32(i)(1), subpart D); and

(iii) Provide a method of determining compliance with paragraph (c) of § 310.40.

(b) *Contents of disclosure accountings.* As a minimum, disclosure accounting shall contain:

(1) The date of the disclosure.

(2) A description of the information released.

(3) The purpose of the disclosure.

(4) The name and address of the person or agency to whom the disclosure was made.

(c) *Methods of disclosure accounting.* Use any system of disclosure accounting that will provide readily the necessary disclosure information (see paragraph (a)(3) of this section).

(d) *Accounting for mass disclosures.* When numerous similar records are released (such as transmittal of payroll checks to a bank), identify the category of records disclosed and include the data required by paragraph (b) of this section in some form that can be used to construct an accounting disclosure record for individual records if required (see paragraph (a)(3) of this section).

(e) *Disposition of disclosure accounting records.* Retain disclosure accounting records for 5 years after the disclosure or the life of the record, whichever is longer.

(f) *Furnishing disclosure accountings to the individual.* (1) Make available to the individual to whom the record pertains all disclosure accountings except when:

(i) The disclosure has been made to a law enforcement activity under paragraph (i) of § 310.41 and the law enforcement activity has requested that disclosure not be made; or

(ii) The system of records has been exempted from the requirement to furnish the disclosure accounting under the provisions of § 310.50(b), subpart F.

(2) If disclosure accountings are not maintained with the record and the individual requests access to the accounting, prepare a listing of all disclosures (see paragraph (b) of this section) and provide this to the individual upon request.

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### Subpart F—Exemptions

#### § 310.50 Use and establishment of exemptions.

(a) *Types of exemptions.* (1) There are two types of exemptions permitted by the Privacy Act.

(i) General exemptions that authorize the exemption of a system of records from all but certain specifically identified provisions of the Act.

(ii) Specific exemptions that allow a system of records to be exempted only