

§ 317.63

with that enterprise. All information furnished will be used in connection with my financial relationship with (name of commercial enterprise).

(3) When a consent statement as described in the preceding paragraph is presented, the information should be provided to the commercial enterprise, unless the disclosure is prohibited by another regulation or Federal law.

(4) Requests should not be honored from commercial enterprises for official evaluations or personal characteristics such as personal financial habits.

§ 317.63 Disclosing health care records to the public.

This section applies to the disclosure of information to the news media and the public concerning individuals treated or hospitalized in DoD medical facilities and, when the cost of care is paid by the agency, in non-Federal facilities.

(a) *Disclosures without the individual's consent.* Normally, the following information may be disclosed without the individual's consent:

(1) Information required to be released by the FOIA, as well as the information listed for military personnel and for civilian employees; and

(2) The following general information concerning medical condition:

(i) Date of admission or disposition; and

(ii) Present medical assessment of the individual's condition in the following terms, if the medical practitioner has volunteered the information:

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

(B) The patient is conscious, semiconscious, or unconscious.

(b) *Disclosures with the individual's consent.* With the individual's informed consent, any information about the individual may be disclosed. If the individual is a minor or has been declared incompetent by a court of competent jurisdiction, the parent or the appointed legal guardian may give consent on behalf of the individual.

(c) *Disclosures to other government agencies.* This section does not limit otherwise lawful disclosures to other

32 CFR Ch. I (7-1-99 Edition)

government agencies for use in determining eligibility for special assistance or other benefits provided there is a published routine use permitting the disclosure.

§ 317.64 Accounting for disclosures.

(a) *When to keep disclosure accountings.* An accurate record of all disclosures made from a record (including those made with the consent of the individual) should be kept except those made:

(1) To DCAA personnel for use in performing their official duties; and

(2) Pursuant to DCAA Regulation 5410.10 (32 CFR part 290).

(b) *Content of disclosure accountings.* Disclosure accountings shall contain:

(1) The date of the disclosure.

(2) A description of the information disclosed.

(3) The purpose of the disclosure; and

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

(c) *Using disclosure accountings.* When an individual's request to amend the record is granted and when an individual files a statement of disagreement, all persons and agencies listed in the disclosure accounting, except those known to be no longer retaining the record, must be informed.

(d) *Individual access to disclosure accountings.* The record subject has the right of access to the disclosure accounting except when:

(1) The disclosure was made at the request of a civil or criminal law enforcement agency, or

(2) The system of records has been exempted from the requirement to provide access to the disclosure accounting.

(e) *Methods of disclosure accounting.* (1) The agency may use any method of disclosure accounting that will readily provide the necessary disclosure information required.

(2) When numerous similar records are disclosed (e.g., sending payroll checks to banks), identify the category of records disclosed and include the information in some form that can be used to construct a disclosure accounting.

(f) *Retaining disclosure accountings.* The disclosure accounting shall be retained for five years after the disclosure was made or the life of the record, whichever is longer.

Subpart G—Publication Requirements

§ 317.70 Federal Register publication.

(a) *Documents that must be published in the FEDERAL REGISTER.* (1) Three types of documents relating to the Privacy Program must be published in the FEDERAL REGISTER:

(i) DCAA Privacy Program procedural rules (32 CFR part 317).

(ii) DCAA exemption rules (32 CFR part 317), and

(iii) Record system notices.

(2) DoD 5025.1-M, “DoD Directives System Procedures,” and DoD Directive 5400.9, “Publication of Proposed and Adopted Regulations Affecting the Public” (32 CFR part 336), contain information on preparing documents for publication in the FEDERAL REGISTER.

(b) *Effect of publication in the FEDERAL REGISTER.* Publishing a document in the FEDERAL REGISTER constitutes official public notice of the existence and content of the document.

(c) *Formal rulemaking and notices.* (1) DCAA Privacy Program procedural and exemption rules are subject to the rulemaking procedures prescribed by 32 CFR part 336. These are incorporated automatically into the Code of Federal Regulations.

(2) Record system notices are published in the FEDERAL REGISTER as “notices.” They are not subject to the rulemaking procedures or automatic incorporation into the Code of Federal Regulations.

(d) *Submitting Privacy Program procedural rules for publication.* (1) Procedural rules must be published in the FEDERAL REGISTER first as proposed rules to allow for public comment, then as final rules.

(2) The DCAA Privacy Advisor will submit to the Defense Privacy Office all proposed rules implementing this rule. The submission must conform to the FEDERAL REGISTER format.

(3) This part published as a final rule in the FEDERAL REGISTER shall be in-

corporated by regions as their own rules by reference rather than by republication. A region that simply implements this part as its own rule need not publish it as a final rule in the FEDERAL REGISTER.

(4) Amendments to agency rules are submitted in the same manner as the original rules.

(5) The Defense Privacy Office, DA&M, reviews and submits all DoD component rules, and amendments to rules to the FEDERAL REGISTER for publication.

(e) *Submitting exemption rules for publication.* (1) Exemption rules must be published in the FEDERAL REGISTER first as proposed rules to allow for public comment, then as final rules.

(2) No system of records shall be exempt from any provision of the Privacy Act until the exemption rule has been published in the FEDERAL REGISTER as a final rule.

(3) Proposed exemption rules should be submitted in proper format through the agency Privacy Advisor to the Defense Privacy Office, DA&M, for review and submittal to the FEDERAL REGISTER for publication.

(4) Amendments to exemption rules are submitted in the same manner as the original exemption rules.

(f) *Submitting record system notices for publication.* (1) Although system notices are not subject to formal rulemaking procedures, advance public notice must be given before the agency may begin to collect information for or maintain a new system of records. The notice procedures require that:

(i) The record system notice describe the contents of the record system and the purposes and routine uses for which the information will be used and disclosed.

(ii) The public be given 30 days to comment on any proposed routine uses before the routine uses are implemented; and

(iii) The notice contain the date the system of records will become effective.

(2) System notices shall be submitted through the agency Privacy Advisor to the Defense Privacy Office, DA&M, for publication in the FEDERAL REGISTER.