

VHA Specific Gap Training

The Department of Veterans Affairs (VA) must comply with all applicable federal privacy and confidentiality statutes and regulations. One of the requirements in VA is to have all personnel trained annually on privacy requirements. "Privacy" represents what must be protected by VA in the collection, use, and disclosure of personal information whether the medium is electronic, paper or verbal.

If you have received privacy training within your organization, your organizational privacy training was reviewed by the VA/Veterans Health Administration (VHA) Privacy Officer, Julie A. Lowery, RHIA. Based on this review, additional VHA Gap training is required to cover missing elements before access, use or disclosure of VA sensitive data can be provided to you. VHA must also make you fully aware of the additional privacy laws governing our agency.

VHA Specific Training

- The Freedom of Information Act (FOIA), 5 U.S.C. 552
- The Privacy Act (PA), 5 U.S.C. 552a
- Confidentiality Nature of Claims, 38 U.S.C. 5701
- Confidentiality of Certain Medical Records, 38 U.S.C. 7332
- Confidentiality of Healthcare Quality Assurance Review Records, 38 U.S.C. 5705

The Freedom of Information Act (FOIA), 5 U.S.C. 552

The FOIA requires Federal departments and agencies, such as VA, to release their records upon receipt of a "perfected request" unless FOIA specifically exempts the information or record from disclosure. Certain Government records are publically available, such as statutes, and VA is not required to provide those to a requester in response to a FOIA request. VA can provide other types of Agency records such as Handbooks and manuals to the requester in public reading rooms or online. The third and most typical type of FOIA request is known as a "Section (a)(3) request". Under Section (a)(3) of the FOIA, a requester can ask VA to provide copies of any VA record that is not publically available or provided in a reading room.

The FOIA requires disclosure of records, in the possession of VA, upon the written request of an individual or organization. Written requests may be received by mail, by hand, by email or fax. Requests made under the FOIA must reasonably describe the records being requested. If a employees receive written FOIA requests for records, such requests should be forwarded to the local FOIA Officer.

The Privacy Act of 1974

In the aftermath of Watergate, the Privacy Act (PA) of 1974 was enacted by Congress to ensure that the Government would only collect and maintain accurate, timely and complete information from U.S. citizens for lawful purposes and would only disclose this information with the consent of the Individual or for lawful purposes. The PA protects information in records that are retrieved and filed by an individual identifier such as a name or Social Security Number. VA must collect, maintain, use, disclose, and dispose of information protected by the PA in accordance with the statute's requirements. Contractors and others who perform these activities for VA must also comply with the requirements of the PA.

Title 38, United States Code, Section 5701
VA BENEFITS RECORDS CONFIDENTIALITY STATUTE

Section 5701 of title 38, United States Code protects identifiable beneficiary information in VA benefits records. Similar to the PA, Section 5701 requires VA to disclose information from VA benefits records with the consent of the Veteran or beneficiary or for certain, specified lawful purposes.

38 U.S.C. Section 5701 makes VA benefits records and the names and home addresses of present and former armed forces personnel and their dependents confidential. Section 5701 also protects applications for benefits and names and home addresses of active duty personnel and their dependents.

Title 38, United States Code, Section 7332
Drug Abuse, Alcoholism, Sickle Cell Anemia and HIV/AIDS Records Confidentiality Statute

To encourage Veterans to seek treatment for drug abuse, alcoholism, Sickle Cell Anemia and HIV/AIDS, 38 U.S.C. Section 7332 was enacted by Congress to ensure the confidentiality of identifiable treatment records for these conditions. Similar to the PA, the HIPAA Privacy Rule and 38 U.S.C. Section 5701, VA can only disclose information from these treatment records with the specific authorization of the Individual patient or in limited circumstances when the authorization is not required.

Title 38, United States Code, Section 5705
VA MEDICAL QUALITY ASSURANCE RECORDS CONFIDENTIALITY

Several VA components including the IG and VHA routinely conduct medical quality assurance (QA) activities to ensure that Veterans obtain the best of medical care at VA health care facilities. To encourage open and frank reviews and evaluations of VA health care by VA health care providers and contractors, Congress enacted 38 U.S.C. Section 5705. It makes information and records generated by VA's medical quality assurance program confidential and privileged and exempt from disclosure under the FOIA. Whether or not a VA health care review record is within the scope of Section 5705 is dependent on whether the review activity is specifically enumerated in VA's medical quality assurance regulations at 38 C.F.R. Sections 1.501(a)(1)-(4).

**YOU ARE RESPONSIBLE FOR PROTECTING THE CONFIDENTIAL
INFORMATION OF OUR VETERANS**

(Print Name)

Date

Signature

Print Name of Agency