(2) Advancement of medical knowledge.

(Authority: 38 U.S.C. 501, 1703, 1710)


EFFECTIVE DATE NOTE: At 77 FR 38181, June 27, 2012, §17.170 was amended by revising paragraph (a), removing paragraph (b), redesignating paragraph (c) as new paragraph (b) and adding a paragraph heading, redesignating paragraph (d) as new paragraph (c) and adding a paragraph heading. In newly redesignated paragraph (c), removing “paragraph (c)” each time it appears and adding, in its place, “paragraph (b)”. Redesignating paragraph (e) as new paragraph (d) and revising newly redesignated paragraph (d). Redesignating paragraph (f) as new paragraph (e) and revising newly redesignated paragraph (e) and adding an authority citation at the end of the section, effective July 27, 2012. For the convenience of the user, the added and revised text is set forth as follows:

§ 17.170 Autopsies.

(a) General. (1) Except as otherwise provided in this section, the Director of a VA facility may order an autopsy on a decedent who died while undergoing VA care authorized by §§ 17.38 or 17.52, if the Director determines that an autopsy is required for VA purposes for the following reasons:

(i) Completion of official records; or

(ii) Advancement of medical knowledge.

(2) VA may order an autopsy to be performed only if consent is first obtained under one of the following circumstances:

(i) Consent is granted by the surviving spouse or next of kin of the decedent;

(ii) Consent is implied where a known surviving spouse or next of kin does not respond within a specified period of time to VA’s request for permission to conduct an autopsy;

(iii) Consent is implied where a known surviving spouse or next of kin does not inquire after the well-being of the deceased veteran for a period of at least 6 months before the date of the veteran’s death; or

(iv) Consent is implied where there is no known surviving spouse or next of kin of the deceased veteran.

(b) Death resulting from crime.

(c) Jurisdiction.

(d) Applicable law. (1) The laws of the state where the autopsy will be performed are to be used to identify the person who is authorized to grant VA permission to perform the autopsy and, if more than one person is identified, the order of precedence among such persons.

(2) When the next of kin, as defined by the laws of the state where the autopsy will be performed, consists of a number of persons such as children, parents, brothers and sisters, etc., permission to perform an autopsy may be accepted when granted by the person in the appropriate class who assumes the right and duty of burial.

(e) Death outside a VA facility. The Director of a VA facility may order an autopsy on a veteran who was undergoing VA care authorized by §§17.38 or 17.52, and whose death did not occur in a VA facility. Such authority also includes transporting the body at VA’s expense to the facility where the autopsy will be performed, and the return of the body. Consent for the autopsy will be obtained as stated in paragraph (d) of this section. The Director must determine that such autopsy is reasonably required for VA purposes for the following reasons:

(1) The completion of official records; or

(2) Advancement of medical knowledge.

(Authority: 38 U.S.C. 501, 1703, 1710)

Veterans Canteen Service

§ 17.180 Delegation of authority.

In connection with the Veterans Canteen Service, the Under Secretary for Health is hereby delegated authority as follows:

(a) To exercise the powers and functions of the Secretary with respect to the maintenance and operation of the Veterans Canteen Service.

(b) To designate the Assistant Chief Medical Director for Administration to administer the overall operation of the Veterans Canteen Service and to designate selected employees of the Veterans Canteen Service to perform the functions described in the enabling statute, 38 U.S.C. ch. 75, so as to effectively maintain and operate the Veterans Canteen Service.


Aid to States for Care of Veterans in State Homes

Note: Sections 17.190 through 17.200 do not apply to nursing home care in State homes. The provisions for nursing home care in State homes are set forth in 38 CFR part 51.

§ 17.190 Recognition of a State home.

A State-operated facility which provides hospital or domiciliary care to
veterans must be formally recognized by the Secretary as a State home before Federal aid payments can be made for the care of such veterans. Any agency of a State (exclusive of a territory or possession) responsible for the maintenance or administration of a State home may apply for recognition by the Department of Veterans Affairs for the purpose of receiving aid for the care of veterans in such State home. A State home may be recognized if:

(Authority: 38 U.S.C. 501, 1741)

(a) The State home is a facility which exists primarily for the accommodation of veterans incapable of earning a living and who are in need of domiciliary, and
(b) The majority of such veterans who are domiciliary members in the home are veterans who may be included in the computation of the amount of aid payable from the Department of Veterans Affairs, and
(c) The personnel, building and other facilities and improvements at the home are devoted primarily to the care of veterans.

§ 17.191 Filing applications.

Applications for Department of Veterans Affairs recognition of a State home may be filed with the Under Secretary for Health, Department of Veterans Affairs. After arranging for an inspection of the State home’s facilities for furnishing domiciliary or hospital care, the Under Secretary for Health will make a recommendation to the Secretary who will notify the State official in writing of a decision.

(Authority: 38 U.S.C. 1742(a))

§ 17.192 Approval of annexes and new facilities.

Separate applications for recognition must be filed for any annex, branch, enlargement, expansion, or relocation of a recognized home which is not on the same or contiguous grounds on which the parent facility is located. When a recognized State home establishes hospital care facilities which have not been inspected and approved by the Department of Veterans Affairs, a request for separate approval of such facilities must be made.

(Authority: 38 U.S.C. 1741, 501)

§ 17.193 Prerequisites for payments to State homes.

No payment or grant may be made to any State home unless the State home meets the standards prescribed by the Secretary.

(Authority: 38 U.S.C. 1741)

§ 17.194 Aid for domiciliary care.

Aid may be paid to the designated State official for domiciliary care furnished in a recognized State home for any veteran if the veteran is eligible for domiciliary care in a Department of Veterans Affairs facility.

(Authority: 38 U.S.C. 1741)

§ 17.196 Aid for hospital care.

Aid may be paid to the designated State official for hospital care furnished in a recognized State home for any veteran if:

(a) The veteran is eligible for hospital care in a Department of Veterans Affairs facility, and
(b) The quarters in which the hospital care is carried out are in an area clearly designated for such care, specifically established, staffed and equipped to provide hospital type care, are not intermingled with the quarters of nursing home care patients or domiciliary members, and meet such other minimum standards as the Department of Veterans Affairs may prescribe.

(Authority: 38 U.S.C. 1741)

§ 17.197 Amount of aid payable.

The amount of aid payable to a recognized State home shall be at the per