SUBCHAPTER A—GENERAL PROVISIONS

PART 1 [RESERVED]

PART 2—CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

Subpart A—Introduction

Sec. 2.1 Statutory authority for confidentiality of drug abuse patient records.
2.2 Statutory authority for confidentiality of alcohol abuse patient records.
2.3 Purpose and effect.
2.4 Criminal penalty for violation.
2.5 Reports of violations.

Subpart B—General Provisions

2.11 Definitions.
2.12 Applicability.
2.13 Confidentiality restrictions.
2.14 Minor patients.
2.15 Incompetent and deceased patients.
2.16 Security for written records.
2.17 Undercover agents and informants.
2.18 Restrictions on the use of identification cards.
2.19 Disposition of records by discontinued programs.
2.20 Relationship to State laws.
2.21 Relationship to Federal statutes protecting research subjects against compulsory disclosure of their identity.
2.22 Notice to patients of Federal confidentiality requirements.
2.23 Patient access and restrictions on use.

Subpart C—Disclosures With Patient’s Consent

2.31 Form of written consent.
2.32 Prohibition on redisclosure.
2.33 Disclosures permitted with written consent.
2.34 Disclosures to prevent multiple enrollments in detoxification and maintenance treatment programs.
2.35 Disclosures to elements of the criminal justice system which have referred patients.

Subpart D—Disclosures Without Patient Consent

2.51 Medical emergencies.
2.52 Research activities.
2.53 Audit and evaluation activities.

Subpart E—Court Orders Authorizing Disclosure and Use

2.61 Legal effect of order.
2.62 Order not applicable to records disclosed without consent to researchers, auditors and evaluators.
2.63 Confidential communications.
2.64 Procedures and criteria for orders authorizing disclosures for noncriminal purposes.
2.65 Procedures and criteria for orders authorizing disclosure and use of records to criminally investigate or prosecute patients.
2.66 Procedures and criteria for orders authorizing disclosure and use of records to investigate or prosecute a program or the person holding the records.
2.67 Orders authorizing the use of undercover agents and informants to criminally investigate employees or agents of a program.


SOURCE: 52 FR 21809, June 9, 1987, unless otherwise noted.

Subpart A—Introduction

§ 2.1 Statutory authority for confidentiality of drug abuse patient records.

The restrictions of these regulations upon the disclosure and use of drug abuse patient records were initially authorized by section 408 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1175). That section as amended was transferred by Pub. L. 98–24 to section 527 of the Public Health Service Act which is codified
§ 2.2 Statutory authority for confidentiality of alcohol abuse patient records.

The restrictions of these regulations upon the disclosure and use of alcohol

patient or to conduct any investigation of a patient.

(d) Continuing prohibition against disclosure irrespective of status as patient

The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e) Armed Forces and Veterans’ Administration; interchange of records; report of suspected child abuse and neglect to State or local authorities

The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans’ Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities.

(f) Penalty for first and subsequent offenses

Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) Regulations; interagency consultations; definitions, safeguards, and procedures, including procedures and criteria for the issuance and scope of orders

Except as provided in subsection (h) of this section, the Secretary, after consultation with the Administrator of Veterans’ Affairs and the heads of other Federal departments and agencies substantially affected thereby, shall prescribe regulations to carry out the purposes of this section. These 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.

(Subsection (h) was superseded by section 111(c)(3) of Pub. L. 94–381. The responsibility of the Administrator of Veterans’ Affairs to write regulations to provide for confidentiality of drug abuse patient records under Title 38 was moved from 21 U.S.C. 1175 to 38 U.S.C. 4134.)