

## § 1.218

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the appropriate United States Attorney's Office, pursuant to 28 U.S.C. 535.

(Authority: 5 U.S.C. App. 3, 38 U.S.C. 902)

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### SECURITY AND LAW ENFORCEMENT AT DEPARTMENT OF VETERANS AFFAIRS FACILITIES

#### § 1.218 Security and law enforcement at VA facilities.

(a) *Authority and rules of conduct.* Pursuant to 38 U.S.C. 901, the following rules and regulations apply at all property under the charge and control of VA (and not under the charge and control of the General Services Administration) and to all persons entering in or on such property. The head of the facility is charged with the responsibility for the enforcement of these rules and regulations and shall cause these rules and regulations to be posted in a conspicuous place on the property.

(1) *Closing property to public.* The head of the facility, or designee, shall establish visiting hours for the convenience of the public and shall establish specific hours for the transaction of business with the public. The property shall be closed to the public during other than the hours so established. In emergency situations, the property shall be closed to the public when reasonably necessary to ensure the orderly conduct of Government business. The decision to close a property during an emergency shall be made by the head of the facility or designee. The head of the facility or designee shall have authority to designate areas within a facility as closed to the public.

(2) *Recording presence.* Admission to property during periods when such property is closed to the public will be limited to persons authorized by the head of the facility or designee. Such persons may be required to sign a register and/or display identification documents when requested to do so by VA police, or other authorized individual. No person, without authorization, shall enter upon or remain on such property while the property is closed. Failure to leave such premises by unauthorized persons shall constitute an offense under this paragraph.

(3) *Preservation of property.* The improper disposal of rubbish on property; the spitting on the property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from a building; the climbing upon the roof or any part of the building, without permission; or the willful destruction, damage, or removal of Government property or any part thereof, without authorization, is prohibited. The destruction, mutilation, defacement, injury, or removal of any monument, gravestone, or other structure within the limits of any national cemetery is prohibited.

(4) *Conformity with signs and emergency conditions.* The head of the facility, or designee, shall have authority to post signs of a prohibitory and directory nature. Persons, in and on property, shall comply with such signs of a prohibitory or directory nature, and during emergencies, with the direction of police authorities and other authorized officials. Tampering with, destruction, marring, or removal of such posted signs is prohibited.

(5) *Disturbances.* Conduct on property which creates loud or unusual noise; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees; which prevents one from obtaining medical or other services provided on the property in a timely manner; or the use of loud, abusive, or otherwise improper language; or unwarranted loitering, sleeping, or assembly is prohibited. In addition to measures designed to secure voluntary terminations of violations of this paragraph the head of the facility or designee may cause the issuance of orders for persons who are creating a disturbance to depart the property. Failure to leave the premises when so ordered constitutes a further disturbance within the meaning of this rule, and the offender is subject to arrest and removal from the premises.

(6) *Gambling.* Participating in games for money or for tangible or intangible things, or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of

numbers tickets, in or on property is prohibited.

(7) *Alcoholic beverages and narcotics.* Operating a motor vehicle on property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering property under the influence of any narcotic drug, hallucinogen, marijuana, barbiturate, amphetamine, or alcoholic beverage (unless prescribed by a physician) is prohibited. The use on property of any narcotic drug, hallucinogen, marijuana, barbiturate, or amphetamine (unless prescribed by a physician) is prohibited. The introduction or possession of alcoholic beverages or any narcotic drug, hallucinogen, marijuana, barbiturate, and amphetamine on property is prohibited, except for liquor or drugs prescribed for use by medical authority for medical purposes. Provided such possession is consistent with the laws of the State in which the facility is located, liquor may be used and maintained in quarters assigned to employees as their normal abode, and away from the abode with the written consent of the head of the facility which specifies a special occasion for use and limits the area and period for the authorized use.

(8) *Soliciting, vending, and debt collection.* Soliciting alms and contributions, commercial soliciting and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts in or on property is prohibited. This rule does not apply to (i) national or local drives for funds for welfare, health, or other purposes as authorized under Executive Order 12353, Charitable Fund Raising (March 23, 1982), as amended by Executive Order 12404 (February 10, 1983), and regulations issued by the Office of Personnel Management implementing these Executive Orders; (ii) concessions or personal notices posted by employees on authorized bulletin boards; and (iii) solicitation of labor organization membership or dues under 5 U.S.C. chapter 71.

(9) *Distribution of handbills.* The distributing of materials such as pamphlets, handbills, and/or flyers, and the displaying of placards or posting of ma-

terials on bulletin boards or elsewhere on property is prohibited, except as authorized by the head of the facility or designee or when such distributions or displays are conducted as part of authorized Government activities.

(10) *Photographs for news, advertising, or commercial purposes.* Photographs for advertising or commercial purposes may be taken only with the written consent of the head of the facility or designee. Photographs for news purposes may be taken at entrances, lobbies, foyers, or in other places designated by the head of the facility or designee.

(11) *Animals.* (i) Service animals, as defined in paragraph (a)(11)(viii) of this section, are permitted on VA property when those animals accompany individuals with disabilities and are trained for that purpose. A service animal shall be under the control of the person with the disability or an alternate handler at all times while on VA property. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (*e.g.*, voice control, signals, or other effective means). VA is not responsible for the care or supervision of a service animal. Service animal presence on VA property is subject to the same terms, conditions, and regulations as generally govern admission of the public to the property.

(ii) A service animal will be denied access to VA property or removed from VA property if:

(A) The animal is not under the control of the individual with a disability or an alternate handler;

(B) The animal is not housebroken. The animal must be trained to eliminate its waste in an outdoor area; or

(C) The animal otherwise poses a risk to the health or safety of people or other service animals. In determining whether an animal poses a risk to the health or safety of people or other service animals, VA will make an individualized assessment based on objective

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indications to ascertain the severity of the risk. Such indications include but are not limited to:

(1) External signs of aggression from the service animal, such as growling, biting or snapping, baring its teeth, lunging; or

(2) External signs of parasites on the service animal (*e.g.* fleas, ticks), or other external signs of disease or bad health (*e.g.* diarrhea or vomiting).

(iii) Service animals will be restricted from accessing certain areas of VA property under the control of the Veterans Health Administration (VHA properties) to ensure patient care, patient safety, or infection control standards are not compromised. Such areas include but are not limited to:

(A) Operating rooms and surgical suites;

(B) Areas where invasive procedures are being performed;

(C) Acute inpatient hospital settings when the presence of the service animal is not part of a documented treatment plan;

(D) Decontamination, sterile processing, and sterile storage areas;

(E) Food preparation areas (not to include public food service areas); and

(F) Any areas where personal protective clothing must be worn or barrier protective measures must be taken to enter.

(iv) Service animals will be restricted from accessing certain areas of VA property under the control of the National Cemetery Administration (NCA properties) to ensure that public safety, facilities and grounds care, and maintenance control are not compromised. Such areas include but are not limited to:

(A) Open interment areas, except as approved to observe an individual interment or inurnment.

(B) Construction or maintenance sites; and

(C) Grounds keeping and storage facilities.

(v) If a service animal is denied access to VA property or removed from VA property in accordance with (a)(11)(ii) of this section, or restricted from accessing certain VA property in accordance with paragraphs (a)(11)(iii) and (iv) of this section, then VA will give the individual with a disability

the opportunity to obtain services without having the service animal on VA property.

(vi) Unless paragraph (a)(11)(vii) of this section applies, an individual with a disability must not be required to provide documentation, such as proof that an animal has been certified, trained, or licensed as a service animal, to gain access to VA property accompanied by the service animal. However, an individual may be asked if the animal is required because of a disability, and what work or task the animal has been trained to perform.

(vii) An individual with a disability, if such individual will be accompanied by the service animal while receiving treatment in a VHA residential program, must provide VA with documentation that confirms the service animal has had a current rabies vaccine as determined by state and local public health requirements, and current core canine vaccines as dictated by local veterinary practice standards (*e.g.* distemper, parvovirus, and adenovirus-2).

(viii) A service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition. Service dogs in training are not considered service animals. This definition applies regardless of whether VA is providing benefits to support a service dog under 38 CFR 17.148.

(ix) Generally, animals other than service animals ("non-service animals") are not permitted to be present on VA property, and any individual with a non-service animal must remove it. However, a VA facility head or designee may permit certain non-service

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animals to be present on VA property for the following reasons:

(A) Animals may be permitted to be present on VA property for law enforcement purposes;

(B) Animals under the control of the VA Office of Research and Development may be permitted to be present on VA property;

(C) Animal-assisted therapy (AAT) animals may be permitted to be present on VHA property when the presence of such animals would not compromise patient care, patient safety, or infection control standards. AAT is a goal-directed clinical intervention, as provided or facilitated by a VA therapist or VA clinician, that incorporates the use of an animal into the treatment regimen of a patient. Any AAT animal present on VHA property must facilitate achievement of patient-specific treatment goals, as documented in the patient's treatment plan. AAT animals must be up to date with all core vaccinations or immunizations, prophylactic parasite control medications, and regular health screenings as determined necessary by a licensed veterinarian consistent with local veterinary practice standards. Proof of compliance with these requirements must be documented and accessible in the area(s) where patients receive AAT.

(D) Animal-assisted activity (AAA) animals may be permitted to be present on VHA property when the presence of such animals would not compromise patient care, patient safety, or infection control standards. AAA involves animals in activities to provide patients with casual opportunities for motivational, educational, recreational, and/or therapeutic benefits. AAA is not a goal-directed clinical intervention that must be provided or facilitated by a VA therapist or clinician, and therefore is not necessarily incorporated into the treatment regimen of a patient or documented in the patient's medical record as treatment. AAA animals must be up to date with all core vaccinations or immunizations, prophylactic parasite control medications, and regular health screenings as determined necessary by a licensed veterinarian consistent with local veterinary practice standards. Proof of compliance with these require-

ments must be documented and accessible in the area(s) where patients may participate in AAA.

(E) Animals participating in a VA Community Living Center (CLC) residential animal program or a Mental Health Residential Rehabilitation Treatment Program (MHRRTTP) may be permitted to be present on VHA property, when the presence of such animals would not compromise patient care, patient safety, or infection control standards. A residential animal program in a VA CLC or a MHRRTTP is a program that uses the presence of animals to create a more homelike environment to foster comfort for veterans, while also stimulating a sense of purpose, familiarity, and belonging. Any VA CLC or MHRRTTP residential animal present on VHA property must facilitate achievement of therapeutic outcomes (such as described above), as documented in patient treatment plans. Residential animals in a VA CLC or MHRRTTP must be up to date with all core vaccinations and immunizations, prophylactic parasite control medications, and regular health screenings as determined necessary by a licensed veterinarian consistent with local veterinary practice standards. Proof of compliance with these requirements must be documented and accessible in the VA CLC or MHRRTTP.

(F) Animals may be present on NCA property for ceremonial purposes during committal services, interments, and other memorials, if the presence of such animals would not compromise public safety, facilities and grounds care, and maintenance control standards.

(x) For purposes of this section, a disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities of the individual; a record of such an impairment; or being regarded as having such an impairment.

(12) *Vehicular and pedestrian traffic.* Drivers of all vehicles in or on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of police and all posted traffic signs. The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on

property is prohibited; parking in unauthorized locations or in locations reserved for other persons or contrary to the direction of posted signs is prohibited. Creating excessive noise on hospital or cemetery premises by muffler cut out, the excessive use of a horn, or other means is prohibited. Operation of a vehicle in a reckless or unsafe manner, drag racing, bumping, overriding curbs, or leaving the roadway is prohibited.

(13) *Weapons and explosives.* No person while on property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

(14) *Demonstrations.* (i) All visitors are expected to observe proper standards of decorum and decency while on VA property. Toward this end, any service, ceremony, or demonstration, except as authorized by the head of the facility or designee, is prohibited. Jogging, bicycling, sledding and other forms of physical recreation on cemetery grounds is prohibited.

(ii) For the purpose of the prohibition expressed in this paragraph, unauthorized demonstrations or services shall be defined as, but not limited to, picketing, or similar conduct on VA property; any oration or similar conduct to assembled groups of people, unless the oration is part of an authorized service; the display of any placards, banners, or foreign flags on VA property unless approved by the head of the facility or designee; disorderly conduct such as fighting, threatening, violent, or tumultuous behavior, unreasonable noise or coarse utterance, gesture or display or the use of abusive language to any person present; and partisan activities, *i.e.*, those involving commentary or actions in support of, or in opposition to, or attempting to influence, any current policy of the Government of the United States, or any private group, association, or enterprise.

(15) *Key security.* The head of the facility of designee, will determine which employees, by virtue of their duties, shall have access to keys or barrier-card keys which operate locks to rooms or areas on the property. The unauthorized possession, manufacture, and/or use of such keys or barrier cards is prohibited. The surreptitious opening

or attempted opening of locks or card-operated barrier mechanisms is prohibited.

(16) *Sexual misconduct.* Any act of sexual gratification on VA property involving two or more persons, who do not reside in quarters on the property, is prohibited. Acts of prostitution or solicitation for acts of prostitution on VA property is prohibited. For the purposes of this paragraph, an act of prostitution is defined as the performance or the offer or agreement to perform any sexual act for money or payment.

(b) *Schedule of offenses and penalties.* Conduct in violation of the rules and regulations set forth in paragraph (a) of this section subjects an offender to arrest and removal from the premises. Whomever shall be found guilty of violating these rules and regulations while on any property under the charge and control of VA is subject to a fine as stated in the schedule set forth herein or, if appropriate, the payment of fixed sum in lieu of appearance (forfeiture of collateral) as may be provided for in rules of the United States District Court. Violations included in the schedule of offenses and penalties may also subject an offender to a term of imprisonment of not more than six months, as may be determined appropriate by a magistrate or judge of the United States District Court:

(1) Improper disposal of rubbish on property, \$200.

(2) Spitting on property, \$25.

(3) Throwing of articles from a building or the unauthorized climbing upon any part of a building, \$50.

(4) Willful destruction, damage, or removal of Government property without authorization, \$500.

(5) Defacement, destruction, mutilation or injury to, or removal, or disturbance of, gravemarker or headstone, \$500.

(6) Failure to comply with signs of a directive and restrictive nature posted for safety purposes, \$50.

(7) Tampering with, removal, marring, or destruction of posted signs, \$150.

(8) Entry into areas posted as closed to the public or others (trespass), \$50.

(9) Unauthorized demonstration or service in a national cemetery or on other VA property, \$250.

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(10) Creating a disturbance during a burial ceremony, \$250.

(11) Disorderly conduct which creates loud, boisterous, and unusual noise, or which obstructs the normal use of entrances, exits, foyers, offices, corridors, elevators, and stairways or which tends to impede or prevent the normal operation of a service or operation of the facility, \$250.

(12) Failure to depart premises by unauthorized persons, \$50.

(13) Unauthorized loitering, sleeping or assembly on property, \$50.

(14) Gambling-participating in games of chance for monetary gain or personal property; the operation of gambling devices, a pool or lottery; or the taking or giving of bets, \$200.

(15) Operation of a vehicle under the influence of alcoholic beverages or non-prescribed narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines, \$500.

(16) Entering premises under the influence of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines, \$200.

(17) Unauthorized use on property of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines, \$300.

(18) Unauthorized introduction on VA controlled property of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines or the unauthorized giving of same to a patient or beneficiary, \$500.

(19) Unauthorized solicitation of alms and contributions on premises, \$50.

(20) Commercial soliciting or vending, or the collection of private debts on property, \$50.

(21) Distribution of pamphlets, handbills, and flyers, \$25.

(22) Display of placards or posting of material on property, \$25.

(23) Unauthorized photography on premises, \$50.

(24) Failure to comply with traffic directions of VA police, \$25.

(25) Parking in spaces posted as reserved for physically disabled persons, \$50.

(26) Parking in no-parking areas, lanes, or crosswalks so posted or marked by yellow borders or yellow stripes, \$25.

(27) Parking in emergency vehicle spaces, areas and lanes bordered in red or posted as EMERGENCY VEHICLES ONLY or FIRE LANE, or parking within 15 feet of a fire hydrant, \$50.

(28) Parking within an intersection or blocking a posted vehicle entrance or posted exit lane, \$25.

(29) Parking in spaces posted as reserved or in excess of a posted time limit, \$15.

(30) Failing to come to a complete stop at a STOP sign, \$25.

(31) Failing to yield to a pedestrian in a marked and posted crosswalk, \$25.

(32) Driving in the wrong direction on a posted one-way street, \$25.

(33) Operation of a vehicle in a reckless or unsafe manner, too fast for conditions, drag racing, overriding curbs, or leaving the roadway, \$100.

(34) Exceeding posted speed limits:

(i) By up to 10 mph, \$25.

(ii) By up to 20 mph, \$50.

(iii) By over 20 mph, \$100.

(35) Creating excessive noise in a hospital or cemetery zone by muffler cut out, excessive use of a horn, or other means, \$50.

(36) Failure to yield right of way to other vehicles, \$50.

(37) Possession of firearms, carried either openly or concealed, whether loaded or unloaded (except by Federal or State law enforcement officers on official business, \$500.

(38) Introduction or possession of explosives, or explosive devices which fire a projectile, ammunition, or combustibles, \$500.

(39) Possession of knives which exceed a blade length of 3 inches; switchblade knives; any of the variety of hatchets, clubs and hand-held weapons; or brass knuckles, \$300.

(40) The unauthorized possession of any of the variety of incapacitating liquid or gas-emitting weapons, \$200.

(41) Unauthorized possession, manufacture, or use of keys or barrier card-type keys to rooms or areas on the property, \$200.

(42) The surreptitious opening, or attempted opening, of locks or card-operated barrier mechanisms on property, \$500.

(43) Soliciting for, or the act of, prostitution, \$250.

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(44) Any unlawful sexual activity, \$250.

(45) Jogging, bicycling, sledding or any recreational physical activity conducted on cemetery grounds, \$50.

(c) *Enforcement procedures.* (1) VA administration directors will issue policies and operating procedures governing the proper exercise of arrest and other law enforcement actions, and limiting the carrying and use of weapons by VA police officers. VA police officers found qualified under respective VA administration directives and duly appointed heads of facilities for the purposes of 38 U.S.C. 902(b)(1), will enforce these rules and regulations and other Federal laws on VA property in accordance with the policies and operating procedures issued by respective VA administration directors and under the direction of the head of the facility.

(2) VA administration directors will prescribe training for VA police officers of the scope and duration necessary to assure the proper exercise of the law enforcement and arrest authority vested in them and to assure their abilities in the safe handling of situations involving patients and the public in general. VA police officers will successfully complete prescribed training in law enforcement procedures and the safe handling of patients as a condition of their retention of statutory law enforcement and arrest authority.

(3) Nothing contained in the rules and regulations set forth in paragraph (a) of this section shall be construed to abrogate any other Federal laws or regulations, including assimilated offenses under 18 U.S.C. 13, or any State or local laws and regulations applicable to the area in which the property is situated.

[50 FR 29226, July 18, 1985, as amended at 80 FR 49162, Aug. 17, 2015]

### § 1.220 On-site activities by pharmaceutical company representatives at VA medical facilities.

(a) *Scope.* This rule governs on-site, in-person promotional activities, including educational activities, by pharmaceutical company representatives at VA medical facilities. It does not apply to the distribution of information and materials through other means.

(b) *Definitions.* For the purposes of this section:

*Criteria-for-use* means clinical criteria developed by the Department of Veterans Affairs (VA) at a National level that describe how certain drugs may be used. VA's criteria-for-use are available to the public at [www.pbm.va.gov](http://www.pbm.va.gov). Exceptions may be applied at the local level for operational reasons.

*Drug or drugs* means:

(1) Articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them;

(2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(3) Articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

(4) Articles intended for use as a component of any article specified in paragraphs (1), (2), or (3) of this definition.

*Drug-related supplies* means supplies related to the use of a drug, such as test strips or testing devices, inhalers, spacers, insulin syringes, and tablet splitters.

*New molecular entity* refers to a drug product containing an active ingredient that has never before received U.S. Food and Drug Administration approval.

*Non-promotable drugs* are drugs designated by VA as non-promotable on <http://www.pbm.va.gov>. A list of the drugs or drug-related supplies classified by VA as non-promotable may be requested by contacting the VA medical facility's Chief of Pharmacy Services.

*Non-VANF drugs or drug-related supplies* means drugs or drug-related supplies that do not appear on the VANF.

*Pharmaceutical company representative* means any individual employed by or contracted to represent a pharmaceutical manufacturer or retailer.

*VA medical facility* means any property under the charge and control of VA used to provide medical benefits, including Community-Based Out-patient Clinics and similar facilities.