By other than a small entity ..... $630.00
(3) For filing a request for an oral
hearing before the Board in an appeal
under 35 U.S.C. 134:
By a small entity (§ 1.27(a)) ..... $630.00
By other than a small entity ..... $1,260.00

Deborah S. Cohn,
Commissioner for Trademarks, United States
Patent and Trademark Office.

[FR Doc. 2012–21974 Filed 9–4–12; 8:45 am]
BILLING CODE 3510–16–P

DEPARTMENT OF VETERANS
AFFAIRS

38 CFR Part 1
RIN 2900–AN95

Sharing Information Between the
Department of Veterans Affairs and the
Department of Defense

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as
final, without change, the interim final
rule published in the Federal Register
on October 20, 2011. This final rule
removes a Department of Veterans
Affairs (VA) regulatory restriction on the
sharing of certain medical information
with the Department of Defense (DoD)
that is not required by the applicable
statute and is inconsistent with the
intent and purpose of that statute.

DATES: Effective Date: September 5,
2012.

FOR FURTHER INFORMATION CONTACT:
Stephania Griffin, Veterans Health
Administration Privacy Officer
(10P2C1), Health Information
Governance, Office of Informatics and
Analytics, Veterans Health
Administration, Department of Veterans
Affairs, 810 Vermont Ave. NW.,
Washington, DC 20420, (703) 245–2492.
(This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section
7332(a)(1) of title 38, United States
Code, affords special protection against
the disclosure of VA medical “[r]ecords of
the identity, diagnosis, prognosis, or
treatment of any patient or subject
which are maintained in connection
with the performance of any program or
activity (including education, training,
treatment, rehabilitation, or research)
relating to drug abuse, alcoholism or
alcohol abuse, infection with the human
immunodeficiency virus, or sickle cell
anemia.” However, an exception in
section 7332(e) states: “The prohibitions
of this section shall not prevent any
interchange of records—(1) within and
among those components of [VA]
furnishing health care to veterans, or
determining eligibility for benefits
under this title; or (2) between such
components furnishing health care to
veterans and the Armed Forces.”

VA implemented section 7332(e) in
38 CFR 1.461(c)(1); however, in so
doing, we imposed an additional
restriction on the scope of information
that may be exchanged between VA and
DoD, limiting it to only “information
pertaining to a person relating to a
period when such person is or was
subject to the Uniform Code of Military
Justice.” This restriction was narrower
than the statutory restriction, and it
impeded VA’s ability to share with DoD
important medical information
pertaining to veterans and to coordinate
their care and treatment. Further, the
restriction impeded VA’s ability to fully
engage in Presidential- and
Congressional-supported
interoperability initiatives with DoD,
such as electronic health record
initiatives. This regulatory limitation
was not intended to have these negative
results on VA’s ability to provide
comprehensive high-quality health care
to veterans and, where applicable, to
support DoD in similarly caring for
servicemembers and military retirees.

On October 20, 2011, VA published in
the Federal Register, at 76 FR 65133,
an interim final rule that amended 38 CFR
1.461(c)(1) to better conform to
authority granted to VA by Congress.
Interested persons were invited to
submit comments on or before
December 19, 2011, and we received a
total of 3 comments. All of the issues
raised by the commenters are addressed
below.

Two commenters stated general
concerns regarding access to electronic
medical records by DoD and the security
of those records from inappropriate
disclosure or access. VA is committed to
the appropriate protection, use, and
disclosure of information maintained
and exchanged by VA in the course of
official business and to ensuring the
security of that information. The
amendment to 38 CFR 1.461(c)(1) allows
VA to fulfill Congress’ clear intention
that VA and DoD engage in the
exchange of records, but does not affect
the requirement of 38 U.S.C. 7332(e)(2)
that limits VA disclosures to
components of DoD that are “‘furnishing
health care to veterans.” We do not
make any changes based on these
comments.

One commenter asserted that this
regulation would create a breach of
confidence by allowing DoD to
access a veteran’s health information
without authorization by the veteran.
However, the commenter also agreed
that it is important that VA and DoD
have access to veterans’ medical
information to ensure continuity of care,
safety, and for the provision of benefits.
This regulation will ensure that this
access is provided for those reasons by
removing a specific restriction that was
not required by the statutory authority.
In addition, VA will continue to comply
with all other applicable laws and
regulations regarding access to medical
records, including those that limit the
use and disclosure of information to
specificially authorized disclosures. We
do not make any changes based on this
comment.

One commenter suggested that
additional language be included in the
final rule to prevent the misuse of
information “for unintended, alternative
[sic] purposes beyond medical care.”
Otherwise, disclosure of information for
purposes other than medical care “may
deter veterans from seeking care and/or
disability compensation” from VA. The
suggested language focuses on the
intended use of the information
accessed under the rule. As we noted
above, the amendment to the rule
complies with the section 7332
limitations on the nature and purpose
of information to be disclosed. Health care
professionals, such as those accessing
information through this provision, are
already duty-bound to access health
information consistent with law and
professional standards. This rule does
not limit or otherwise affect the
enforcement of those laws and
professional standards. Because we
believe the suggested language is
redundant of existing protections and
because other laws and regulations
govern such use and disclosure, we
decide to further amend the regulation.
We do not make any changes based on
this comment.

Based on the rationale set forth here,
and in the interim final rule, we adopt
the interim final rule as a final rule
without any changes.

Effect of Rulemaking

The Code of Federal Regulations, as
revised by this final rule, represents the
exclusive legal authority on this subject.
No contrary rules or procedures are
authorized. All VA guidance will be
read to conform with this rulemaking if
possible or, if not possible, such
guidance is superseded by this
rulemaking.

Paperwork Reduction Act

This rule contains no collections of
information under the Paperwork
3521).
Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by the Office of Management and Budget (OMB) unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are: 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; and 64.013, Veterans Prosthetic Appliances.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on August 29, 2012, for publication.

List of Subjects in 38 CFR Part 1


Dated: August 30, 2012.

Robert C. McFetridge, Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

PART 1—GENERAL PROVISIONS

Accordingly, the interim final rule amending 38 CFR part 1, which was published at 76 FR 65133 on October 20, 2011, is adopted as a final rule without changes.

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–ANS1

Service Dogs

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulations concerning veterans in need of service dogs. Under this final rule, VA will provide to veterans with visual, hearing, or mobility impairments benefits to support the use of a service dog as part of the management of such impairments. The benefits include assistance with veterinary care, travel benefits associated with obtaining and training a dog, and the provision, maintenance, and replacement of hardware required for the dog to perform the tasks necessary to assist such veterans.

DATES: Effective Date: This rule is effective October 5, 2012.

FOR FURTHER INFORMATION CONTACT: Lynnette Nilan, RN, MN, Patient Care Services, (10P4), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (406) 422–4476. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On June 16, 2011, VA published in the Federal Register (76 FR 35162) a proposed rule to amend VA regulations to broaden and clarify current benefits to veterans with guide dogs, and to establish new benefits related to service dogs. Pursuant to 38 U.S.C. 1714(b) and (c), VA may provide to veterans enrolled under 38 U.S.C. 1705 guide dogs trained for the aid of people who are blind and service dogs trained for the aid of the hearing impaired or persons with a spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility. Under section 1714(d), VA is also authorized to provide certain travel expenses related to the provision of such dogs.

In 1961, VA promulgated 38 CFR 17.118(a) (recodified as current 38 CFR 17.154(a) in 1996) restating the statutory language, which at that time limited VA’s authority to the provision of guide dogs for blind veterans. In 2001, Congress amended section 1714 to authorize VA to provide service dogs for veterans with other disabilities. See Department of Veterans Affairs Health Care Programs Enhancement Act of 2001, Public Law 107–135, title II, § 201. This rule implements that authority and establishes a single regulation relating to the provision of guide and service dog benefits by VA.

Interested persons were invited to submit comments to the proposed rule on or before August 15, 2011, and we received 98 comments. All of the issues raised by the commenters that concerned at least one portion of the