

## DECEDENT AFFAIRS

- 1. REASON FOR ISSUE.** This Veterans Health Administration (VHA) Handbook provides VHA-wide procedures pertaining to patients who die while receiving Department of Veterans Affairs (VA)-authorized hospital, nursing home, or domiciliary care. **AUTHORITY:** Title 38, United States Code (U.S.C.), 101; 38 U.S.C. 2301 et seq.; Title 38 Code of Federal Regulations (CFR) 3.1600 et seq.; and 38 CFR 17.170.
- 2. SUMMARY OF CHANGES.** This VHA Handbook updates current policy on:
  - a. Statutory and regulatory authorities governing burial benefits; and
  - b. Clarification of VHA procedures governing autopsies, and processing unclaimed remains.
- 3. RELATED ISSUES.** VHA Directive 1600 (to be published).
- 4. RESPONSIBLE OFFICE.** The Chief Business Office (10NB) is responsible for the contents of this VHA Handbook. Questions may be addressed at (202) 461-1589.
- 5. RESCISSIONS.** VHA Manual M-1, Operations, Part I, Medical Administration Activities, Chapter 14, Seriously Ill Patients and Their Deaths, Section I, and Sections III through XIV is rescinded.
- 6. RECERTIFICATION.** This Handbook is scheduled for recertification on or before the last working day of February 2018.

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## DECEDENT AFFAIRS

### 1. PURPOSE

This Veterans Health Administration (VHA) Handbook provides VHA-wide procedures pertaining to patients who die while receiving Department of Veterans Affairs (VA)-authorized hospital, nursing home, or domiciliary care.

### 2. BACKGROUND AND AUTHORITY

This VHA Handbook is designed to provide general information on VHA-wide procedures after a patient's death. The authority for the procedures is found in:

- a. Title 38 United States Code (U.S.C.) 101
- b. Title 38 U.S.C. 2301 et seq.
- c. Title 38 Code of Federal Regulations (CFR) 3.1600 et seq.
- d. Title 38 CFR 17.170

### 3. DEFINITIONS

a. **Authorized Admission.** The term authorized admission means a Veteran who has been medically evaluated and accepted for admission by a VA clinician as a patient for hospital, nursing home, or domiciliary care under 38 U.S.C. 1710 or 1711(a) in a VA health care facility or non-VA health care facility under 38 U.S.C. 1703 or 1720.

b. **VA Facility.** A VA facility means:

- (1) Facilities over which the Secretary of Veterans Affairs has direct jurisdiction;
- (2) Government facilities for which the Secretary contracts; and
- (3) Public or private facilities at which the Secretary provides recreational activities for patients receiving care under 38 U.S.C. 1710.

c. **Non-VA Facility.** Non-VA facilities means facilities other than VA facilities defined in subparagraph 3(b).

### 4. SCOPE

This Handbook provides details on the following topics:

- a. Autopsies;
- b. Death certificates; and

- c. Unclaimed remains.

## 5. RESPONSIBILITIES OF THE FACILITY DIRECTOR

The facility Director is responsible for establishing a written facility policy ensuring:

- a. The procedures regarding autopsies are followed and documented appropriately;
- b. Appropriate inpatient records and documentation regarding admission and discharge is established; and
- c. Administrative procedures for inpatient deaths are initiated and followed.

## 6. AUTOPSIES

### a. **Request for an Autopsy on a Veteran Who Died in a VA Facility.**

(1) In all instances, the requirements of 38 CFR 17.170 control whether an autopsy must be performed. When a patient dies while an inpatient at a VA facility or under the immediate care of a VA facility (such as during an outpatient or emergency care visit, or during an ambulatory care procedure), the Director of that VA facility must request consent from the spouse or next-of-kin to perform an autopsy. The laws of the state where the autopsy will be performed are to be used to identify the person who is authorized to give VA permission to perform the autopsy.

*NOTE: The Director of a VA facility may need to consult with Regional Counsel as to whom under state law, according to 38 CFR 17.170(d), can consent to the autopsy.*

(2) If there is no known surviving spouse or known next of kin, or if the spouse, or in proper cases, the next of kin does not inquire after the well-being of the decedent for a period of at least 6 months before the date of the decedent's death, or if the request is sent and the spouse or, in proper cases, the next of kin fails to reply within the reasonable time stated in the VA request for permission to perform the autopsy, the Director of that VA facility is authorized to have an autopsy performed, if, at the Director's discretion, the Director concludes that such autopsy is required for the following VA purposes: the completion of official records, or the advancement of medical knowledge.

### b. **Request for an Autopsy on Veterans Who Died in a Non-VA Facility.**

(1) The Director of a VA facility may order an autopsy on a Veteran who dies outside that VA facility while undergoing VA care authorized by 38 U.S.C. 1703 and 38 CFR 17.38 or 17.52, if the Director determines such autopsy is reasonably required for the following VA purposes: the completion of official records, or the advancement of medical knowledge. The Director is also authorized to provide transportation of the body to the facility where the autopsy will be performed and the return of the body at VA expense.

(2) Consent for the autopsy must be obtained as provided for in subparagraph 6a.

c. **Recording Authorizations for an Autopsy.** Standard Form (SF) 523, Authorization for Autopsy, or a transcript of the recorded telephone conversation, must be used to record the authorization for an autopsy and must include the original copy of the authorization in the deceased patient's consolidated health record or Computerized Patient Record System (CPRS). All parties must consent before recording.

*NOTE: For information on recording and filing the authorizations for autopsies, see VHA Handbook 1106.01, Pathology and Laboratory Medicine Service Procedures. SF 523 can be found at: <http://www.gsa.gov/portal/forms/type/TOP>.*

d. **Autopsies on Deaths Resulting From a Crime.** In addition to following the previous procedures regarding autopsies, the following procedures must be followed in accordance with 38 CFR 17.170 if it is suspected that death resulted from a crime (including a Federal crime), and

(1) If the United States has exclusive jurisdiction over the area where the body is found, then:

(a) The Director of the VA facility must inform the Office of the Inspector General (OIG) of the known facts concerning the death. The OIG will be responsible for transmitting all such information to the U.S. Attorney for such action as may be deemed appropriate and will inquire from the U.S. Attorney as to whether the attorney objects to the autopsy or if any special actions are required.

(b) If the U.S. Attorney has no objections, the procedure regarding the autopsy is the same as if the death had not been reported to the U.S. Attorney.

(2) If the U.S. does not have exclusive jurisdiction over the area where the body is found, the local medical examiner or coroner must be notified.

(a) If the local medical examiner or coroner assumes jurisdiction, then the autopsy is performed by the local medical examiner or coroner.

(b) If the medical examiner/coroner does not assume jurisdiction, refer to subparagraph 6(d)(1).

(3) If a Federal crime is indicated by the evidence, the procedure set forth in subparagraph 6(d)(1) must be followed.

e. **Autopsies on Deaths Resulting From Reportable Adverse or Risk Events.** Certain deaths due to reportable adverse or risk events may require an autopsy. Consent for the autopsy must be obtained as provided for in subparagraph 6a.

## 7. DEATH CERTIFICATES

a. Death Certificates, and any other local, city, or state forms required at time of death, need to be processed by the Decedent Affairs employee at the VA facility where the death occurred. The personal facts are to be obtained from the patient's records and by an interview with the

nearest relative or friend. The medical information necessary to complete the cause of death entries must be obtained from the physician in attendance.

b. Local, city, or state laws and regulations must be followed with regards to the completion of documents required by those jurisdictions at time of death, unless such laws and regulations conflict with VA policy or Federal law.

## 8. UNCLAIMED REMAINS

a. If a Veteran dies from non-service-connected causes at a VA facility under authorized admission or at a non-VA facility under authorized admission at VA expense, and the Veteran's remains are unclaimed, the facility Director will request funeral and burial services to be procured through a contract. The cost of the funeral and burial services may not exceed \$700.00, as increased from time to time by VA under 38 U.S.C. 2303(c). The burial services will include the following:

(1) Preparation of the body, embalming;

(2) Clothing;

(3) Casket (The casket, at a minimum, must be constructed from thick, strong particle board and must be of sufficient strength to support the weight of an adult human body. Cardboard or pressed paper or similar materials are not acceptable.);

(4) Securing all necessary permits; and

(5) Ensuring that a U.S. flag accompanies the casket to the place of burial.

If a Veteran is eligible for burial in a national cemetery under 38 U.S.C. 2402, but is buried instead in a cemetery owned by a state or by an agency or political subdivision of a state, VA may pay an amount up to \$700, as increased from time to time by VA under 38 U.S.C. 2303(c), for the cost of the plot. If a Veteran is eligible for burial in a national cemetery under 38 U.S.C. 2402, but is buried instead in a private cemetery, VA may pay an amount up to \$700, as increased from time to time by VA under 38 U.S.C. 2303(c), for the cost of the plot, except that, if a state, an agency or political subdivision of a state, or a former employer of the Veteran pays or assumes any part of the plot or interment costs of such a burial, VA may pay only the amount of the plot cost exceeding the total of such paid or assumed amounts.

*NOTE: If the cost of the burial exceeds the statutory amount, VA will pay the additional minimum amount necessary for the burial.*

b. If the Veteran dies in a state, VA will pay for the actual cost of transporting the body to the place of burial in a state, as provided in 38 U.S.C. 2303(a)(1)(B) and 38 CFR 3.1605(b). The cost of transporting the remains is in addition to the burial services allowance and the plot allowance. The transportation allowance covers:

- (1) The transportation cost of the shipment of the body by common carrier or by hearse from the place of death to the funeral home and to the place of burial;
- (2) Any charges for an outside shipping box; and
- (3) The charges for securing all necessary permits for removal or shipment of the body.

*NOTE: If a Veteran dies in a VA facility under authorized admission or in a non-VA facility under authorized admission at VA expense and the body of such Veteran is claimed by the Veteran's next of kin or close friend, then a burial allowance and transport allowance may be paid by the Veterans Benefit Administration as stated in 38 CFR 3.1600 and 3.1605.*

## 9. DEATHS DURING OUTPATIENT CARE

a. **Dead on Arrival.** A person who had not been authorized admission and is dead on arrival is not considered to be constructively hospitalized. The next of kin and coroner or equivalent must be notified immediately. Disposition of the remains needs to be made in accordance with the wishes of the next of kin, unless stipulated by the coroner. Burial benefits may not be authorized under the circumstances as described in this paragraph, see 38 CFR 3.1605(e).

b. **Death in the Emergency Department (ED).** If an admission is authorized and documented in either the CPRS or the medical record while the Veteran is in the ED, but the Veteran dies before actually being moved to a ward, the Veteran is considered constructively hospitalized by VA. When a death occurs in an ED and an admission has not been authorized in writing, the Veteran is not to be admitted to the VA facility. Appropriate clinic disposition and death procedures for Veterans receiving care on an outpatient basis are to be utilized in such cases. Burial benefits may not be authorized when a death occurs in an ED and an admission has not been authorized in writing, see 38 CFR 3.1605(e).

## 10. REFERENCES

- a. Title 38 U.S.C. Section 101.
- b. Title 38 U.S.C. Section 1703.
- c. Title 38 U.S.C. Section 1710 et seq.
- d. Title 38 U.S.C. Section 2301 et seq.
- e. Title 38 U.S.C. Section 2402.
- f. Title 38 CFR 3.1600 et seq.
- g. Title 38 CFR 17.38.
- h. Title 38 CFR 17.52.

- i. Title 38 CFR 17.170.
- j. VHA Handbook 1160.01, Pathology and Laboratory Medicine Service Procedures.