

representative, by VHF–FM Channel 13 (156.65 MHz) or 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative.

(d) *Enforcement period.* This section will be enforced during the following dates and times: July 3, 2024, Pacific Palisades in Bel Air Bay, CA from 8:00 p.m. to 11:00 p.m.; July 4, 2024, Newport Beach, CA from 8:00 p.m. to 11:00 p.m.; July 4, 2024, Long Beach Carnival Cruise Terminal from 8:00 p.m. to 11:00 p.m.; July 5, 2024, South Laguna in Three Arch Bay, CA from 8:00 p.m. to 11:00 p.m.; And July 6, 2024, Catalina Island in Two Harbors, CA from 8:00 p.m. to 11:00 p.m.

Dated: June 12, 2024.

S.L. Crecy,

Captain, U.S. Coast Guard, Captain of the Port Los Angeles—Long Beach.

[FR Doc. 2024–13341 Filed 6–17–24; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AR95

Exemption of “Diversity and Equal Employment Opportunity (EEO) Program Records” (203VA08)

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final, with one change, a proposed rule to exempt the system of records titled, “Diversity and Equal Employment Opportunity (EEO) Program Records” (203VA08) from certain provisions of the Privacy Act, in order to, prevent interference with harassment and sexual harassment administrative investigations.

DATES: This final rule is effective July 18, 2024.

FOR FURTHER INFORMATION CONTACT:

Larry Holman, Program Analyst, Office of Resolution Management, Diversity and Inclusion (ORMDI), Department of Veterans, 810 Vermont Avenue NW, Washington, DC 20420, 901–456–8148 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On June 9, 2023, VA published a proposed rule in the *Federal Register* (88 FR 37839) to add a new exemption to § 1.582 of title 38 Code of Federal Regulations (CFR) exempting certain Harassment Prevention Program (HPP) records from the Privacy Act of 1974, as amended, 5 U.S.C. 552a. The exempted records

include management notifications; investigator and coordinator findings; determinations as to whether harassment occurred; preventive or corrective action taken; and related correspondence, exhibits, and written follow-up documents. VA believes disclosure of these records would cause sources to refrain from disclosing information due to fear of reprisal and that disclosure would compromise guarantees of anonymity and confidentiality, therefore compromising VA’s ability to conduct investigations and obtain information necessary to support an effective HPP.

VA provided a 60-day comment period, which ended on August 8, 2023. VA received seventy-one comments on the proposed rule. One comment was supportive of the rule, and we thank the commenter for their support. The remaining seventy comments opposed the proposed Privacy Act exemptions. VA addresses the non-supportive comments below, which have been grouped together by theme. VA adopts the proposed rule as final with one minor technical change described below.

Fifteen commenters raised concerns with the proposed rulemaking, stating that it will make it harder for employees to prevail in EEO cases and will negatively affect the outcome of HPP investigations. VA disagrees because EEO investigations are separate and independent investigations from HPP. HPP does not require a basis and does not make determinations of discrimination nor unlawful harassment, rather, HPP is focused on ensuring that harassment is expediently addressed and stopped. VA is committed to transparency in its investigative processes and believes the Privacy Act exemptions are necessary to maintain the confidentiality and integrity of the HPP. The Privacy Act exemptions will protect the identities of sources wishing to remain anonymous for fear of retaliation, harassment, intimidation, and other attempts to improperly influence outcomes of investigations. Since some comments appear to confuse the HPP and EEO processes, VA reiterates that the HPP and EEO process are distinct, and individuals can file both EEO and HPP complaints on the same underlying issue. Exempting HPP records will not impact the release of EEO reports of investigation because they are different processes. HPP investigations do not make legal determinations of unlawful harassment or discrimination. These investigations are designed to stop harassing behaviors before they become unlawful. EEO investigations are

conducted by independent third-party investigators, while HPP complaints are investigated by factfinders in the facility where the incident occurred. VA makes no changes to the rule based on these comments.

Seventeen commenters expressed concerns that labor-management relations will deteriorate if the proposed Privacy Act exemptions are implemented. VA believes labor-management relations will not be impacted because VA protects individuals who participate in harassment investigations from retaliation, harassment, intimidation, and other attempts to improperly influence outcomes of investigations. Additionally, under current VA policy, there is an existing prohibition regarding providing HPP records to individuals filing HPP complaints as well as negotiated grievance procedures that only apply to the subject of the investigation. The rule will allow Union representatives to request HPP records using the VA Freedom of Information Act (FOIA) procedures, contained in 38 CFR 1.550 through 1.562, where identities of sources are redacted. VA makes no changes to the rule based on these comments.

Thirty-four commenters expressed concerns that if these Privacy Act exemptions are implemented, ORMDI and local EEO offices would be flooded with complaints, which would result in complaints not being resolved at the lowest level. VA shares the concern for resolving complaints at the lowest level and is committed to holding those who engage in harassment accountable. VA will continue to offer multiple paths to report harassment, thereby allowing individuals to choose the path with which they are most familiar and provide increased safeguards to protect confidential sources from reprisal. VA believes revealing of HPP records will infringe upon the confidentiality of the program and threaten the privacy of the witnesses who are required to cooperate in the process. Individuals wishing to review the report will continue to be able to request the report through a FOIA request.

Nineteen commenters expressed concern that the proposed rule would inhibit transparency. To reiterate, VA is committed to transparency in its investigative processes, but believes these Privacy Act exemptions are necessary to maintain the confidentiality and integrity of the HPP. These Privacy Act exemptions will protect the identities of sources wishing to remain anonymous from retaliation, harassment, intimidation, and other attempts to improperly influence

outcomes of investigations. VA makes no changes to the rule based on these comments.

Seven commenters were generally opposed to the rule and expressed concerns that exempting HPP records from disclosure under the Privacy Act would make it difficult to track repeat offenders, would show a lack of concern for harassment prevention by VA, and would be harmful to all. Implementing these Privacy Act exemptions will not conceal the existence of HPP records but will categorize these records as investigative documents necessary to carry out the HPP. As such, these Privacy Act exemptions will minimize the potential of altering investigative records, as well as safeguard the identity of witnesses, individuals who report the allegations, and other sources necessary to the investigative process. As mentioned previously, this rulemaking will not hinder the ability to request copies of redacted HPP records using VA's FOIA process. VA makes no changes to the rule based on these comments.

Change Not Based on Comments

In the proposed rule, VA proposed adding the new Privacy Act exemptions for HPP records in paragraph (d) of 38 CFR 1.582. This was a technical error, as current paragraph (d) contains exemptions for certain police and security records and there should be no change to that paragraph. In this final rule, VA makes a minor technical change to correct the paragraph for the HPP Privacy Act exemptions to paragraph (e).

Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) directs 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 effects, 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 14094 (Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18,

2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The operations and administrative processes associated with this final rule consist of internal VA management officials and non-bargaining unit individuals (internal VA Human Resource or VA Quality Assurance staff). Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

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 final rule will not have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 3521).

Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not satisfying the criteria under 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Claims, Freedom of information, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Security measures.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on June 12, 2024, 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.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

- 1. The authority citation continues to read as follows:

Authority: 38 U.S.C. 5101, and as noted in specific sections.

- 2. Amend § 1.582 by adding paragraph (e) to read as follows:

* * * * *

(e) *Exemption of Harassment Prevention Program Records.* The Department of Veterans Affairs provides limited access to Harassment Prevention Program (HPP) records as indicated.

(1) The system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(k)(2) from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f): Diversity and Equal Employment Opportunity (EEO) Program Records (203VA08).

(2) This exemption applies to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(3) For the reasons set forth, the system of records listed above is exempted under 5 U.S.C. 552a(k)(2) from the following provisions of 5 U.S.C. 552a:

(i) 5 U.S.C. 552a(c)(3) requires that an agency make available to the individual to whom the records pertain upon request an accounting of disclosures of records that includes the date, nature and purpose of each disclosure of the record and the name and address of the recipient. Providing an individual with an accounting of disclosures of HPP records could reveal the existence of an investigation of alleged harassment and the allegations being investigated and therefore result in the alternation or destruction of evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(ii) 5 U.S.C. 552a(d), (e)(4), (G), (H), and (f) relate to an individual's right to be notified of the existence of records

pertaining to such individual; requirements for identifying an individual who requests access to records; and the agency procedures relating to access to records and the contest of information contained in such records. Providing an individual with notification of, access to, or the right to seek amendment of HPP records could disclose the identity of confidential sources, reveal investigative techniques, and interfere with enforcement proceedings.

(iii) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. Revealing the sources of information in HPP records could discourage such sources from cooperating with investigations of alleged harassment for fear of reprisal. In addition, the disclosure of VA's investigative techniques and procedures and compromise the ability to conduct impartial investigations into workplace and sexual harassment allegations.

(iv) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. The relevance or necessity of specific information in HPP records often cannot be detected in the early stages of an investigation and can only be established after the information is evaluated. Further, a thorough and complete investigation could involve information that at first appears incidental but ultimately becomes critical to the investigation.

(Authority: 5 U.S.C. 552a(j) and (k); 38 U.S.C. 501)

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AR98

VA Health Professional Scholarship Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final, without changes, a proposed rule to amend its regulations that govern the VA Health Professional Scholarship Program (HPSP) by implementing the mandates of the Consolidated Appropriations Act, which would expand the number of scholarships available to those who are

pursuing degrees or training in occupations providing care within mental health programs. This rule also adopts as final technical corrections under the Paperwork Reduction Act section to correct an approved Office of Management and Budget (OMB) control number.

DATES: This rule is effective July 18, 2024.

FOR FURTHER INFORMATION CONTACT: Nicole Nedd, Director, Scholarships and Clinical Education, Workforce Management and Consulting Office, 810 Vermont Ave. NW, Washington, DC 20420. ((504) 881-4036). (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** (FR) on August 14, 2023, VA proposed to revise its VA Health Professional Scholarship Program (HPSP) regulations. The purpose of the HPSP is to award scholarships to students pursuing a course of study leading to a degree in certain health care occupations, listed in 38 U.S.C. 7401(1) and (3). See § 17.600. The HPSP allows VA to provide scholarship awards to facilitate recruitment and retention of employees in several hard-to-fill health care occupations. *Id.* In the proposed rule we stated that we would amend the HPSP to reflect statutory changes made by section 104(a) of Division V of the Consolidated Appropriations Act (the Act), Public Law 117-328, which expanded HPSP by requiring VA to specifically award scholarships to applicants pursuing degrees or training in mental health disciplines, including advanced practice nursing (with a focus on mental health or substance use disorder), psychology, and social work. Section 104(a) of the Act also required that VA provide no fewer than an additional 50 awards (as compared to academic year 2021, which provided 33 awards) to such applicants per academic year starting in academic year 2022. 88 FR 54972. The rule also proposed to make a technical edit to the HPSP regulations to correct an approved Office of Management and Budget (OMB) control number. *Id.*

VA provided a 60-day comment period, which ended on October 13, 2023. VA received 13 comments on the proposed rule. One comment supported the proposed rule and will not be further addressed in this final rule. The remaining comments are summarized and addressed in the discussion below.

Public Comments

Physician Assistants

VA received 11 comments regarding physician assistants (PAs). The

comments suggested or supported the inclusion of PAs as mental health care professionals eligible to receive scholarships under proposed § 17.603(b)(2). For instance, a commenter suggested that generally PAs should receive scholarships under proposed § 17.603(b)(2) and another stated that PAs are a core mental health profession. VA does not make any changes based on these comments.

PAs are eligible to apply for and receive HPSP scholarships for mental health disciplines under proposed § 17.603(b)(2). Consistent with section 104(a) of Division V of the Act, VA proposed to revise § 17.603(b)(2) to expand HPSP to applicants who are pursuing degrees or training in mental health disciplines, including advanced practice nursing (with a focus on mental health or substance use disorder), psychology, and social work. As noted in the proposed rule, this is not an exhaustive list and merely mirrors section 104(a) of Division V of the Act. 88 FR 54974. VA acknowledges that PAs' training includes core mental health training and mandatory psychiatry clinical rotations, and they may provide mental health care. Thus, PAs are eligible to apply for and may receive HPSP scholarships for mental health disciplines under proposed § 17.603(b)(2) once this rule is final and effective.

Other commenters suggested that PAs be listed in proposed § 17.603(b)(2) as a mental health profession eligible for a HPSP scholarship pursuant to the Act. Relatedly, one commenter stated that VA should provide an exhaustive list of health care professions that may be awarded the HPSP scholarship under proposed § 17.603(b)(2). We do not make changes to the rule based on these comments.

As VA explained in the proposed rule, the list of mental health disciplines in proposed § 17.603(b)(2) is not an exhaustive list, as there are other mental health disciplines not included in the Act. (See 88 FR 54974). Other mental health disciplines may include licensed professional mental health counselor, marriage and family therapist, and rehabilitation counseling. The list in proposed § 17.603(b)(2) was merely meant to mirror the statutory language and is not exclusionary of other mental health care professions. VA determined that it should maintain a non-exhaustive list in the regulation to permit flexibility so that new mental health professions can be included without the need to amend the regulations. Therefore, other occupations not listed in proposed § 17.603(b)(2) that may provide clinical care in mental health programs may,