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## **Medical**

Book I

Title 38, Parts 17, 46, 47, 51–53,  
58–64, 70, 71, and 200

Supplement No. 134

Covering period of *Federal Register* issues  
through December 1, 2020

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Custom Federal Regulations Service™

**Supplemental Materials for *Book I***

**Code of Federal Regulations**

**Title 38, Parts 17, 46, 47, 51–53, 58–64, 70, 71, and 200**

***Medical***

**Supplement No. 134**

5 December 2020

Covering the period of Federal Register issues  
through December 1, 2020

When **Book I** was originally prepared, it was current through final regulations published in the *Federal Register* of 15 January 2000. These supplemental materials are designed to keep your regulations up to date. You should file the attached pages immediately, and record the fact that you did so on the *Supplement Filing Record* which is at page I-8 of Book I, *Medical*.

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**FILING INSTRUCTIONS**

**Book I, Supplement No. 134  
December 5, 2020**

*Remove these  
old pages*

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I-17 to I-18

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Adding §17.419

**Be sure to complete the  
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## HIGHLIGHTS

### Book I, Supplement No. 134 December 5, 2020

**Supplement Highlights references:** Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §17.100, you will see a note at the end of that section which reads: “Supplement *Highlights* references—37(1).” This means that paragraph 1 of the *Highlights* section in Supplement No. 37 contains information about the changes made in §17.100. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

**Supplement frequency:** Beginning 1 January 2000, supplements for this Book I will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

#### **Modifications in this supplement include the following:**

1. On 12 November 2020, the VA published an interim final rule effective that same day, to confirm that its health care professionals may practice their health care profession consistent with the scope and requirements of their VA employment, notwithstanding any State license, registration, certification, or other requirements that unduly interfere with their practice. Specifically, this rulemaking confirms VA's current practice of allowing VA health care professionals to deliver health care services in a State other than the health care professional's State of licensure, registration, certification, or other State requirement, thereby enhancing beneficiaries' access to critical VA health care services. This rulemaking also confirms VA's authority to establish national standards of practice for health care professionals which will standardize a health care professional's practice in all VA medical facilities. Changes:

- Added §17.419.

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**Part 17 — Medical**

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

Section 17.32 is also issued under 38 U.S.C. 7331-7334

Section 17.35 is also issued under 38 U.S.C. 1724

Section 17.38 is also issued under 38 U.S.C. 1703.

Section 17.46 is also issued under 38 U.S.C. 1710.

Section 17.52 is also issued under 38 U.S.C. 1701, 1703, 1710, 1712, and 3104.

Section 17.55 is also issued under 38 U.S.C. 513, 1703, and 1728.

Section 17.56 is also issued under 38 U.S.C. 1703 and 1728.

Sections 17.61 through 17.74, 38 U.S.C. 501, and as noted in specific sections.

Section 17.105 is also issued under 38 U.S.C. 501, 1721, 1722A, 1724, and 1725A.

Section 17.108 is also issued under 38 U.S.C. 501, 1703, 1710, 1725A, and 1730A.

Section 17.110 is also issued under 38 U.S.C. 501, 1703, 1710, 1720D, 1722A, and 1730A.

Section 17.111 is also issued under 38 U.S.C. 101(28), 501, 1701(7), 1703, 1710, 1710B, 1720B, 1720D, and 1722A.

Section 17.125 is also issued under 38 U.S.C. 7304

Section 17.169 is also issued under 38 U.S.C. 1712C.

Sections 17.380, 17.390 and 17.412 are also issued under sec. 260, Pub. L. 114-223, 130 Stat. 857 and §236, div. J, Pub. L 115-141, 132 Stat. 348.

Section 17.410 is also issued under 38 U.S.C. 1787.

Section 17.415 is also issued under 38 U.S.C. 7301, 7304, 7402, and 7403.

Section 17.419 also issued under 38 U.S.C. 1701 (note), 7301, 7306, 7330A, 7401-7403, 7405, 7406, 7408).

Section 17.450 is also issued under 38 U.S.C. 1703E.

Sections 17.613 through 17.618 are also issued under Pub. L. 115-182, sec. 304

Sections 17.640 and 17.647 are also issued under sec. 4, Pub. L. 114-2, 129 Stat. 30.

Sections 17.641 through 17.646 are also issued under 38 U.S.C. 501(a) and sec. 4, Pub. L. 114-2, 129 Stat. 30.

Section 17.417 also issued under 38 U.S.C. 1701 (note), 1709A, 1712A (note), 1722B, 7301, 7330A, 7401-7403, 7406 (note).

Section 17.655 also issued under 38 U.S.C. 501(a), 7304, 7405.

Sections 17.4000 through 17.4040 also issued under 38 U.S.C. 1703, 1703B, and 1703C.

Section 17.4100 et seq. is also issued under 38 U.S.C. 1703A.

Section 17.4600 is also issued under 38 U.S.C. 1725A.

**Ed. Note:** Nomenclature changes to Part 17 appear at 61 FR 7216, Feb. 27, 1996

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(ii) The beneficiary is receiving services in a State other than the health care provider's State of licensure, registration, or certification;

(iii) The health care provider is delivering services in a State other than the health care provider's State of licensure, registration, or certification;

(iv) The health care provider is delivering services either on or outside VA property;

(v) The beneficiary is receiving services while she or he is located either on or outside VA property;

(vi) The beneficiary has or has not previously been assessed, in person, by the health care provider; or

(vii) Other State requirements would prevent or impede the practice of health care providers delivering telehealth to VA beneficiaries.

(c) *Preemption of State law.* To achieve important Federal interests, including, but not limited to, the ability to provide the same complete health care and hospital service to beneficiaries in all States under 38 U.S.C. 7301, this section preempts conflicting State laws relating to the practice of health care providers when such health care providers are practicing telehealth within the scope of their VA employment. Any State law, rule, regulation or requirement pursuant to such law, is without any force or effect on, and State governments have no legal authority to enforce them in relation to, this section or decisions made by VA under this section.

[83 FR 21906, May 11, 2018]

**Supplement *Highlights* reference:** 115(1).

**§ 17.419 Health care professionals' practice in VA.**

(a) *Definitions.* The following definitions apply to this section.

(1) *Beneficiary.* The term beneficiary means a veteran or any other individual receiving health care under title 38 of the United States Code.

(2) *Health care professional.* The term health care professional is an individual who:

(i) Is appointed to an occupation in the Veterans Health Administration that is listed in or authorized under 38 U.S.C. 7306, 7401, 7405, 7406, or 7408 or title 5 of the U.S. Code;

(ii) Is not a VA-contracted health care professional; and

(iii) Is qualified to provide health care as follows:

(A) Has an active, current, full, and unrestricted license, registration, certification, or satisfies another State requirement in a State;

(B) Has other qualifications as prescribed by the Secretary for one of the health care professions listed under 38 U.S.C. 7402(b);

(C) Is an employee otherwise authorized by the Secretary to provide health care services; or

(D) Is under the clinical supervision of a health care professional that meets the requirements of subsection (a)(2)(iii)(A)-(C) of this section and is either:

(i) A health professions trainee appointed under 38 U.S.C. 7405 or 7406 participating in clinical or research training under supervision to satisfy program or degree requirements; or

(ii) A health care employee, appointed under title 5 of the U.S. Code, 38 U.S.C. 7401(1) or (3), or 38 U.S.C. 7405 for any category of personnel described in 38 U.S.C. 7401(1) or (3) who must obtain an active, current, full and unrestricted licensure, registration, certification, or meet the qualification standards as defined by the Secretary within the specified time frame.

(3) *State.* The term State means a State as defined in 38 U.S.C. 101(20), or a political subdivision of such a State.

(b) *Health care professional's practice.*

(1) When a State law or license, registration, certification, or other requirement prevents or unduly interferes with a health care professional's practice within the scope of their VA employment, the health care professional is required to abide by their Federal duties, which includes, but is not limited to, the following situations:

(i) A health care professional may practice their VA health care profession in any State irrespective of the State where they hold a valid license, registration, certification, or other State qualification; or

(ii) A health care professional may practice their VA health care profession within the scope of the VA national standard of practice as determined by VA.

(2) VA health care professional's practice is subject to the limitations imposed by the Controlled Substances Act, 21 U.S.C. 801 et seq. and implementing regulations at 21 CFR 1300 et seq., on the authority to prescribe or administer controlled substances, as well as any other limitations on the provision of VA care set forth in applicable Federal law and policy.

(c) *Preemption of State law.* Pursuant to the Supremacy Clause, U.S. Const. art. IV, cl. 2, and in order to achieve important Federal interests, including, but not limited to, the ability to provide the same complete health care and hospital service to beneficiaries in all States as required by 38 U.S.C. 7301, conflicting State laws, rules, regulations or requirements pursuant to such laws are without any force or effect, and State governments have no legal authority to enforce them in relation to actions by health care professionals within the scope of their VA employment.

[85 FR 71845, Nov. 12, 2020]

**Supplement *Highlights* reference:** 134(1).

**§ 17.450 Center for Innovation for Care and Payment.**

(a) *Purpose and organization.* The purpose of this section is to establish procedures for the Center for Innovation for Care and Payment.

(1) The Center for Innovation for Care and Payment will be responsible for working across VA to carry out pilot programs to develop innovative approaches to testing payment and service delivery models to reduce expenditures while preserving or enhancing the quality of care furnished by VA.

(2) The Center for Innovation for Care and Payment will not operate within any specific administration but will operate in VA's corporate portfolio to ensure the limited number of concurrent pilot programs under this section are not redundant of or conflicted by ongoing innovation efforts within any specific administration.

(b) *Definitions.* The following definitions apply to this section.

*Access* refers to entry into or use of VA services.

*Patient satisfaction of care and services* refers to patients' rating of their experiences of care and services and as further defined in a pilot program proposal.

*Payment models* refer to the types of payment, reimbursement, or incentives that VA deems appropriate for advancing the health and well-being of beneficiaries.

*Pilot program* refers to a pilot program conducted under this section.

*Quality enhancement* refers to improvement or improvements in such factors as clinical quality, beneficiary-level outcomes, and functional status as documented through improvements in measurement data from a reliable and valid source, and as further defined in a pilot program proposal.

*Quality preservation* refers to the maintenance of such factors as clinical quality, beneficiary-level outcomes, and functional status as documented through maintenance of measurement data from an evidence-based source, and as further defined in a pilot program proposal.

*Reduction in expenditure* refers to, but is not limited to, cost stabilization, cost avoidance, or decreases in long- or short-term spending, and as further defined in a pilot program proposal. NOTE: VA will also consider the proposal's potential impact on expenditures for other related Federal programs; however, this potential impact will not count against the limitation in paragraph (d)(2) of this section.

*Service delivery models* refer to all methods or programs for furnishing care or services.