

**Department of
Veterans Affairs**

Memorandum

Date: June 5, 2015

From: VHA PRA Compliance Liaison (10B4)

Subject: Request for OMB review of 2900-XXXX, Requirement to Present Certain Health Information for a Service Dog Under 38 C.F.R. 1.218(a)(11)

To: OMB Desk Officer for Veterans Affairs

Pursuant to 38 U.S.C. 901, VA may prescribe rules to provide for the maintenance of law and order and the protection of persons and property on VA property. VA implements this authority in regulations at 38 CFR 1.218 pertaining to security and law enforcement. This final rule will amend § 1.218(a)(11) to require VA facilities to permit service animals on VA property consistent with 40 U.S.C. 3103 (section 3103) and Public Law 112-154, § 109, 126 Stat. 1165 (2012) (section 109). Section 3103(a) provides that guide dogs or other service animals accompanying individuals with disabilities and especially trained for that purpose shall be admitted to any building or other property owned or controlled by the Federal Government on the same terms and conditions, and subject to the same regulations, as generally govern the admission of the public to the property. Section 109 provides that VA specifically may not prohibit the use of a covered service dog in any VA facility, on any VA property, or in any facility or on any property that receives funding from VA, and further defines a covered service dog as a service dog that has been trained by an entity that is accredited by an appropriate accrediting body that evaluates and accredits organizations which train guide or service dogs. Current 38 CFR 1.218(a)(11), however, reads that dogs and other animals, except seeing-eye dogs, shall not be brought upon property except as authorized by the head of the facility or designee. Our current regulation can be interpreted to allow the head of a VA facility or designee to bar access to all animals other than seeing-eye dogs, which is inconsistent with both section 3103(a) and section 109. We therefore revise our regulation to be consistent with the requirements in section 3103(a) and section 109. Therefore, VA certifies that the collection of information meets each of the listed criteria for the following reasons:

Data collection is needed prior to the expiration of time periods established in this part:

The data being collected needed prior to the expiration of time periods established under this part due to anticipation that the regulations authorizing this program will publish and become effective prior to the expiration of the time periods established under this Part

Data collection is essential to the mission of the agency

This data must be collected so that VA can ensure service animals staying with Veterans in a residential treatment program, and other animals used in treatment areas (AAA and AAT animals), are up to date with current core vaccines to be considered healthy for purposes of continuous, extended exposure to veterans, VA staff, and other VA stakeholders.

The agency cannot reasonably comply with the normal clearance procedures under this Part because:

Currently, VA lacks the authority to collect the requisite information from Veterans regarding the vaccination health of service dogs brought onto VA property. Inasmuch, there is substantial risk in allowing Veteran service animals in residential treatment settings for extended periods of time without proper documentation confirming basic canine health. In particular, VA must be able to verify an animal's rabies vaccination status to minimize the risk of zoonotic transmission. Rabies is a viral disease which

causes acute infection of the central nervous system and is almost always fatal once symptoms appear.¹ The most common mode of rabies virus transmission is from the bite of an infected animal. According to data from the Centers for Disease Control and Prevention, 0.3% of domestic dogs tested positive for rabies across the United States in 2010. While this may appear to pose a small risk to humans, the associated risks and costs of rabies and its treatment are very real, particularly in a medical setting which is likely to include a higher number of immunocompromised individuals than the general population.² Due to the fast-paced nature and enclosed environment of most residential treatment facilities, there is substantial liability associated with the possibility that an unhealthy animal could bite another Veteran, staff, or other VA stakeholder, or otherwise contaminate healthy environments. As such, for the safety and wellbeing of those associated with the program, it is imperative for the Department to quickly gain the ability to collect information regarding the service dog's health prior to admission on the VA campus.

Moreover, failure to collect this information will pre-emptively prevent Veterans from fully engaging in the treatment of the residential program. The Veteran will not be permitted to have their service animal during such treatment. As raised by commenters, and as agreed by VA, the harm that may result is the large amount of Veterans who would be unable to reach their full rehabilitation goals because of the important role that service animals play in assisting Veterans in completing activities. If the service animal is not permitted to join the Veteran on the residential treatment unit for the duration of the treatment, there is also a risk that any skills learned by the Veteran will not be fully integrated into the Veteran's routine upon leaving residential treatment.

As to AAA/AAT animals, or residential animals on VHA CLCs or MHR RTPs, these are not service animals (*they are not specifically trained to assist Veterans with disabilities to complete tasks*), however these animals do provide therapeutic benefit for Veterans when both part of a treatment plan (AAT), or as part of activities (AAA). The presence of residential animals on VHA CLCs and MHR RTPs additionally assist to create a more homelike environment to foster comfort for Veterans, while stimulating a sense of purpose, belonging, and familiarity for the general health and function of residents in these programs. For health, safety, and liability purposes, VA cannot risk allowing these animals to access Veteran treatment and residential areas without documentation that confirm basic health. Such delayed action could result in the risk of an unhealthy animal bite of another Veteran, staff, or other VA stakeholder, or the possibility of the contamination of a healthy environment.

Thank you for your consideration of this matter.

Respectfully,

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¹ New York State Department of Health, "Rabies Fact Sheet," 2011. Accessed online at: <http://www.health.ny.gov/diseases/communicable/rabies/fact_sheet.htm>.

² Centers for Disease Control and Prevention, "Rabies," 2013. Accessed online at: <<http://www.cdc.gov/rabies/index.html>>.