

**Department of
Veterans Affairs**

Memorandum

Date: May 7, 2020

From: Michael Shores, Director, Office of Regulation Policy and Management, Office of the Secretary, Department of Veterans Affairs

Subj: Request for OMB review and consideration of emergency clearance for an addition to the “VA Advance Directive - Durable Power of Attorney for Health Care and Living Will” data collection, pursuant to interim final rule 2900-AQ97

To: Paul Ray
Administrator, Office of Information and Regulatory Affairs (OIRA)

Cc: VA Desk Officer, James Crowe
Office of Management and Budget (OMB)

Section 7331 of title 38, United States Code (U.S.C.), requires, in relevant part, that the Secretary of Veterans Affairs, upon the recommendation of the Under Secretary for Health, prescribe regulations to ensure, to the maximum extent practicable, that all VA patient care be carried out only with the full and informed consent of the patient, or in appropriate cases, a representative thereof. Based on VA’s interpretation of this statute and our mandate in 38 U.S.C. 7301(b) to provide a complete medical and hospital service, we recognize that patients with decision-making capacity have the right to state their treatment preferences in a VA or other valid advance directive.

The VA advance directive form (both English and Spanish language versions) is VA Form 10-0137. These forms have a current OMB Paperwork Reduction Act (PRA) clearance under OMB Control Number 2900-0556. When a Veteran is incapacitated and does not have an advance directive, the VA regulations allow a statement to be submitted from a “Close Personal Friend” who will be responsible for making health care decisions on behalf of the Veteran.

This request for an emergency PRA clearance applies to the addition of the collection of a “Close Personal Friend Statement” to 2900-0556. It is estimated that 300 statements will be collected annually, with a burden of 10 minutes per statement. This information collection is noticed in the interim final rule associated with RIN-AQ97.

Emergency clearance is requested because AQ97 changed from a proposed rule to an interim final rule that will soon be cleared for publication in the Federal Register. The use of regular OMB clearance procedures will not allow for coordination of the PRA clearance with publication of the rule. OMB PRA approval is respectfully requested by May 8, 2020.

Questions may be addressed to Michael P. Shores, via phone at (202) 461-4921 or via email at Michael.shores@va.gov.

Thank you for your consideration of this matter.

Michael P. Shores

Michael P. Shores,
Director, Office of Regulation Policy and Management,
Office of the Secretary,
Department of Veterans Affairs.