

CHAPTER 37-18
DEPARTMENT OF VETERANS' AFFAIRS

37-18-01. Department established - Commissioner.

There is hereby established a department of veterans' affairs under the supervision and control of a commissioner known as commissioner of veterans' affairs, hereinafter referred to as the commissioner.

37-18-02. Qualifications and appointment of commissioner.

Repealed by S.L. 1971, ch. 344, § 25.

37-18-03. Advisory committee.

Repealed by S.L. 1971, ch. 344, § 25.

37-18-04. Duties of commissioner.

It is the duty of the commissioner to coordinate agencies or instrumentalities of the state set up to render service and benefits to returning veterans; to have charge of and implement programs and benefits authorized by statute; to assist or represent veterans or their widows, administrators, executors, guardians, or heirs, in processing claims; to advise and assist veterans in taking advantage of the provisions of the Servicemen's Readjustment Act of 1944 [Pub. L. 78-346; 58 Stat. 291], or any similar or related measures afforded by the federal government; to provide counties with recommended qualifications and standards for county veterans' service officers; to assist counties with training of county veterans' service officers; to provide county veterans' service officers with educational materials; to assist county veterans' service officers in the performance of their duties; to disseminate information; and to do any and all things necessary and proper for the purpose of carrying out the intent and purposes of this chapter.

37-18-05. Seal of commissioner - Power to administer oaths and make certifications.

The commissioner shall have a seal of office and may administer oaths and take acknowledgments in connection with the prosecution of any claim for compensation, hospitalization, insurance, or other aid or benefits. The commissioner may certify to the correctness of any document or documents which may be submitted in connection with any such application.

37-18-06. Establishment of divisions - Assistants.

The commissioner is hereby authorized and empowered to establish within the department a claims division, a loan division, a field division, and such other divisions as from time to time may become necessary to carry out the purposes of the chapter; to appoint such assistants as may be necessary; and to prescribe regulations and rules of procedure.

37-18-07. Commissioner - Appointment - Qualifications - Term - Salary.

The appointment, qualifications, term of office, and salary of the commissioner must be as prescribed in section 37-18.1-03. The commissioner must be allowed such amounts for travel, clerkhire, and expenses as may be prescribed from time to time by legislative appropriations.

37-18-08. Office of commissioner - Where located.

The office of the commissioner shall be located in the same city as the principal office of the veterans' administrator for this state. If the veterans' administrator is removed from the state, such commissioner's office must be located in the state capitol.

37-18-09. Department a continuation of veterans' service commissioner.

Repealed by S.L. 1971, ch. 344, § 25.

37-18-10. Unexpended funds transferred.

Repealed by omission from this code.

37-18-11. Release of information and records - Confidential nature.

All records and papers pertaining or relating to veterans which are transmitted by the United States government to the department of veterans' affairs must be kept and maintained by said department under the following provisions and conditions:

1. All records and papers of the department are to be utilized in the manner to best serve the public interest, but the veteran's right of privacy as to information pertaining to the veteran's military or naval service and to confidential information contained in the veteran's application for benefits will be respected.
2. All reports of investigation made by employees of the department or at the direction of the department for official departmental purposes are for the use of the commissioner and the commissioner's staff only. Materials and information which disclose the investigative techniques of the department or the identity of confidential informants and material received in confidence by representatives of the department will not be released.
3. Records pertaining to any application for benefits, whether pending or adjudicated, will be deemed confidential and no disclosure therefrom will be made except in the circumstances and under the conditions set forth in this chapter, and any person making application for benefits must hereinafter be referred to as the applicant.
4. An applicant may not have access to official department records concerning the applicant, but information from official records may be disclosed to an applicant or the applicant's duly authorized representative as to matters concerning the applicant.
5. "Duly authorized representative" is defined as any person authorized in writing by the applicant to act for the applicant, or the applicant's legally constituted representative if the applicant is incompetent or deceased. If for proper reason no such representative has been or will be appointed, the applicant's spouse, an adult child, or if the applicant is unmarried, either of the applicant's parents shall be recognized as the duly authorized representative of the applicant.
6. Medical information may be disclosed as follows:
 - a. Except as otherwise required by law, information contained in medical records on file shall be disclosed to the resident on request.
 - b. Information contained in medical records of residents and beneficiaries pertaining to medical history, diagnosis, findings, or treatment may be disclosed directly to physicians and hospitals for treatment, payment, and health care operations, and as otherwise authorized by law. This information is to be treated as confidential information. This information also may be disclosed without the consent of the resident or the resident's personal representative when a request for the information is received from the veterans' administration, the United States public health service, the superintendent of a state hospital, a commissioner or head of a state department of mental hygiene, or head of a state, county, or city health department and the disclosure is required by law, or for the purpose of treatment, payment, or health care operations.
7. Information contained in loan files may be made available to any party having an interest in such loan transaction upon approval by the director or pursuant to rules and regulations promulgated by the director.
8. Information contained in department files required for official purposes by any agency of the United States government or by any agency of the state of North Dakota, or by any law enforcement or public welfare agency of any North Dakota county or municipality may be furnished in response to an official request, written or oral, from such agency. The requesting agency must be asked to specify the purpose for which such information is to be used.
9. Subject to the limitations of any other law, members of the legislative assembly may be furnished such information contained in department files as may be requested for official use.

10. A county veterans' service officer may be permitted to inspect records pertaining to any application for benefits in which the officer's office may be directly involved upon the condition that only such information contained therein as may be properly disclosed will be disclosed by the officer only to the applicant or if the applicant is incompetent, to the applicant's legally constituted representative.
11. When records pertaining to any application for benefits are requested for use in any judicial proceedings, they will be released only upon service of a proper subpoena and upon the condition that they will be returned upon conclusion of such proceedings.
12. Addresses of applicants from department records will not be furnished, except as provided in subsections 5 through 10. When an address is requested by a person to whom it may not be furnished, the person making the request will be informed that correspondence enclosed in an unsealed envelope showing no return address, with the name of the addressee thereon, and bearing sufficient postage to cover mailing costs will be forwarded by the department. At the time the correspondence is forwarded, the department's return address will be placed on the envelope. If undelivered mail is returned to the department, the original sender will be notified thereof, but the envelope will be retained by the department. In no event will letters be forwarded for the purposes of debt collection, canvassing, or harassment.
13. Separation documents evidencing service in the armed forces of the United States will be considered confidential and privileged, anything contained in subsections 4 through 10 notwithstanding. Examination of such records will be limited to authorized employees of the department and information entered thereon will be disclosed only to interested governmental agencies for the purpose of assisting veterans and their dependents to obtain the rights and benefits to which they may be entitled.

37-18-12. Funding authority - Continuing appropriation.

The department of veterans' affairs may accept and expend funds from any source, including federal or private sources, to be used to assist veterans or qualified veterans' spouses in obtaining assistance and to pay other expenses authorized by law incurred in carrying out programs of benefit and service for resident North Dakota veterans as authorized by the administrative committee on veterans' affairs with the approval of the emergency commission. However, all interest earnings from the veterans' postwar trust fund received by the department of veterans' affairs from the administrative committee on veterans' affairs are appropriated to the department on a continuing basis.

37-18-13. Records.

The department of veterans' affairs may receive from the United States such records of veterans as the United States may wish to turn over to the department of veterans' affairs and same shall keep and maintain the records as provided in this chapter.

37-18-14. Department of veterans' affairs employees - Conservatorship activities prohibited.

An employee of the department of veterans' affairs may not serve as a conservator for an individual who is receiving benefits or services from the department, except if the individual is the spouse or an immediate family member of the employee.