

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. The commissioner must be a bona fide resident of the state, and must qualify as a veteran as defined in section 37-01-40. The commissioner shall serve at the pleasure of the governor.

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Repealed by S.L. 1971, ch. 344, § 25.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Repealed by S.L. 1971, ch. 344, § 25.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.

To provide services and benefits to veterans and the veterans' dependents, the commissioner shall:

1. Coordinate with any federal agency or public or private entity of this state or any other state as required to fulfill the commissioner's duties;
2. Supervise and implement programs and benefits authorized by statute;
3. Assist or represent veterans or their widows, administrators, executors, guardians, or heirs, in processing claims;
4. Advise and assist veterans in taking advantage of the benefits and services for veterans afforded by the federal government;
5. Provide counties with recommended qualifications and standards for county veterans' service officers;
6. Assist counties with training of county veterans' service officers;
7. Provide county veterans' service officers with educational materials;
8. Assist county veterans' service officers in the performance of their duties;
9. Disseminate information; and
10. Do 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 by the governor. 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 or veterans' eligible dependents must be kept and maintained by the department of veterans' affairs under the following provisions and conditions:

1. All records and papers of the department must 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, are deemed confidential and may not be disclosed except in the circumstances and under the conditions set forth in this chapter. For purposes of this section, "applicant" means an individual applying for benefits.
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" means 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 a representative has not been or will not be appointed, the applicant's spouse, an adult child, or if the applicant is unmarried, either of the applicant's parents are 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 a veteran's medical records on file must be disclosed to the veteran on request.
 - b. Information contained in medical records of veterans or veterans' dependents 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 veteran or the veteran's duly authorized 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 the loan transaction upon approval by the commissioner or pursuant to rules and regulations adopted by the commissioner.

8. Information contained in department files required for official purposes by any agency of the United States government or by any agency of this state, or by any law enforcement or public welfare agency of any county or municipality of this state may be furnished in response to an official request, written or oral, from the agency. The requesting agency must be asked to specify the purpose for which the information is to be used.
9. Subject to the limitations of any other law, members of the legislative assembly may be furnished the information contained in department files as may be requested for official use.
10. A county veterans' service officer may inspect records pertaining to any application for benefits in which the officer's office may be directly involved upon the condition that only the information contained in the application as may be properly disclosed must be disclosed by the officer only to the applicant or if the applicant is incompetent, to the applicant's duly authorized representative.
11. When records pertaining to any application for benefits are requested for use in any judicial proceedings, the records may be released only upon service of a proper subpoena and upon the condition the records will be returned upon conclusion of the proceedings.
12. Addresses of applicants from department records may 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 must be informed correspondence enclosed in an unsealed envelope showing no return address, with the name of the addressee on the correspondence, and bearing sufficient postage to cover mailing costs will be forwarded by the department. When the correspondence is forwarded, the department's return address must be placed on the envelope. If undelivered mail is returned to the department, the original sender must be notified, and the envelope must be retained by the department. The department may not forward letters for the purposes of debt collection, canvassing, or harassment.
13. Separation documents evidencing service in the armed forces of the United States and information extracted from a separation document by the United States department of defense are confidential and privileged, anything contained in subsections 4 through 10 notwithstanding. Examination of those records is limited to authorized employees of the department and information within those records may be disclosed only to interested governmental agencies for the purpose of assisting veterans or veterans' eligible dependents to obtain the rights and benefits to which the veterans or veterans' eligible dependents may be entitled.

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

1. Except as otherwise provided by subsection 2, 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 governor with the approval of the emergency commission.
2. The department of veterans' affairs may apply for, accept, and receive any private donation, gift, grant, or bequest that is offered or tendered with a specifically identified purpose or a restrictive condition and which is related to a benefit or service for resident North Dakota veterans.
 - a. The department shall administer and expend any private donation, gift, grant, or bequest in accordance with the purpose or condition imposed by the donor.
 - b. All moneys received or accepted under this subsection are appropriated on a continuing basis to the department of veterans' affairs in accordance with the donor's instructions.
3. 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.

37-18-15. Commemorative memorial coin - Eligibility.

1. The department of veterans' affairs shall create and confer a commemorative memorial coin upon a family member of a deceased North Dakota veteran during military funeral honors for that veteran if the deceased veteran:
 - a. Served on active duty, in the national guard, or in the selected reserve and departed the armed forces or national guard under conditions other than dishonorable;
 - b. Completed at least one term of enlistment or period of initial obligated service in the selected reserve and departed under conditions other than dishonorable or was discharged from the selected reserve due to a disability incurred or aggravated in the line of duty;
 - c. Died while serving on active duty, in the national guard, or in the selected reserve; or
 - d. Was a member of the commissioned officer corps of the public health service, the national oceanic and atmospheric administration, or a civilian or contractual group of individuals given active duty service determinations and considered a veteran under Public Law No. 95-202.
2. Any person may purchase a commemorative memorial coin from the department of veterans' affairs at a cost determined by the department.
3. As used in this section:
 - a. "Family member" means a spouse, parent, child, or other individual related by blood.
 - b. "North Dakota veteran" means an individual who meets the requirements of subsection 1 and who was a resident of North Dakota during any period of the individual's life.
4. Under section 37-18-12, the department may expend any gifts, grants, or donations received for the creation and conferment of commemorative memorial coins.

37-18-16. Veterans' service organization reimbursement.

1. As used in this section, a "funeral service" includes a:
 - a. Folding of the flag;
 - b. Presentation of the flag;
 - c. Presentation of the state coin;
 - d. Playing of taps; and
 - e. Three volley salute.
2. The department shall administer a program to reimburse a veterans' service organization for providing a funeral service at a military honors funeral.
3. Upon the request of a veterans' service organization, the department shall reimburse up to fifty dollars to one veterans' service organization per funeral for providing a funeral service during a military honors funeral. If a veterans' service organization has received federal reimbursement for providing a funeral service for a military honors funeral, the veterans' service organization may not apply for reimbursement under this section.

4. The veterans' service organization may authorize the playing of taps on a ceremonial bugle or a high-quality recording during a military honors funeral held in this state for a deceased veteran.

37-18-17. Burial medallion program.

1. As used in this section, "medallion" means a small, durable marker attached to an existing headstone or grave marker to indicate a veteran's status.
2. The department of veterans' affairs shall establish and administer a program to provide a medallion for a national guard or national guard reserve member, not buried in the state veterans' cemetery, who does not qualify for another medallion from the state or federal department of veterans affairs.