

December 13, 2000

MEDICAL REVIEW ASSISTANCE TO BOARD OF VETERANS APPEALS CASES

1. PURPOSE: This Veterans Health Administration (VHA) Directive outlines the process by which Department of Veterans Affairs (VA) medical centers and their physicians provide medical reviews for the Board of Veterans Appeals (BVA) cases that require expert advisory medical opinions. This directive is effective April 17, 2000. *Note:* The original Directive, 10-95-040, inadvertently lapsed on April 17, 2000, although the parties continued operating under its terms. We are making it effective on that date to indicate that the procedures have been continually in force. All action taken under this directive after April 17, 2000, is hereby ratified. We have also replaced an outdated reference to the ADCMD for Clinical Programs with the designation of the Chief Patient Care Services Officer.

2. BACKGROUND: Prior to the Veterans Judicial Review Act in 1988, BVA was permitted to use its own staff physicians in addition to outside resources to provide expert medical opinions in the decision-making of appeal cases. In July 1994, the decision of the United States (U. S.) Court of Veterans Appeals in *Austin v. Brown* constrained the role BVA staff physicians can play in the appellate process. Appeal cases requiring expert medical opinions must now be referred to sources outside of BVA, such as the Armed Forces Institute of Pathology, selected medical schools, and VHA, for providing the medical reviews. VHA physicians offer higher quality of medical reviews, which is due to a greater appreciation of unique veterans' health problems, a shorter turn-around time of reviewed cases, and familiarity with VA policies and procedures. Most cases requiring medical expert opinions are in the areas of internal medicine, cardiology, psychiatry, orthopedic surgery, neurology, and occasionally rheumatology, ENT, pulmonary medicine, environmental medicine, and other specialties.

3. POLICY: Agencies in VA have a responsibility to assist and collaborate with each other to serve veterans.

4. ACTION

a. A VHA program will be formalized to expedite the provision of medical reviews of BVA appeal cases needing expert medical opinions. VHA will provide BVA with a listing of VA medical centers (VAMCs), Chiefs of Staff names and phone numbers, and the medical centers' areas of expertise. BVA estimates approximately 2,000 cases a year. Cases will be distributed equitably by BVA, based on specialty needs, geographical location, and facility size, to all appropriate VA medical centers, thereby placing minimal burden on any individual VA medical center.

(1) The Office of Chief of Staff will be responsible for the implementation of the Directive at each VA medical center. Medical advisory opinions are to be prepared by physicians employed by or under contract to VA medical centers.

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(2) All requests for medical advisory opinions will be initiated by BVA to the Office of Chief of Staff of an individual VA medical center from the VHA listing. BVA will select VA medical centers with the appropriate medical expertise indicated in the listing. Each BVA request will clearly and concisely state the medical question(s) for which a medical advisory opinion is being sought. In addition, each request will contain operational procedures including where the completed advisory opinions are to be sent and how the opinion and the related veteran's claim folder are to be shipped back to BVA. BVA will also provide a point of contact for questions concerning the request or process.

(3) To facilitate prompt resolutions of veterans' appeals, a maximum turnaround time of 60 days is allowed to provide BVA with a completed medical advisory opinion, starting from the date the VAMC receives all pertinent medical case review material of a BVA request.

(4) BVA will provide feedback to VHA with a quarterly report on the participation by VAMCs, number and type of cases referred, timeliness of responses, and the quality of the medical advisory opinions in facilitating the adjudication process.

b. BVA will be responsible for contacting each VAMC's Chief of Staff, or designee, to update operational guidelines or procedures as necessary.

c. VHA will review this Directive annually and monitor the quantity of medical reviews and services provided by VAMCs as well as impacts on their workload and staffing.

5. REFERENCE: None.

6. FOLLOW-UP RESPONSIBILITY: The Chief Patient Care Services Officer (11) and the Chairman, Board of Veterans Appeals (01), share responsibility for this Directive.

7. RESCISSIONS: This VHA Directive expires December 31, 2005.

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