

September 29, 2010

MEDICAL REVIEW ASSISTANCE TO BOARD OF VETERANS' APPEALS CASES

1. PURPOSE: This Veterans Health Administration (VHA) Directive defines the Department of Veterans Affairs (VA) process by which VHA provides medical reviews for the Board of Veterans' Appeals (BVA) cases that require expert advisory medical opinions.

2. BACKGROUND: Prior to the Veterans' Judicial Review Act in 1988, BVA was permitted to use both its own staff physicians and outside medical resources to provide expert medical opinions for use in adjudicating appeals cases. In July 1994, the United States Court of Appeals for Veterans Claims issued a decision that significantly constrained the role of BVA staff physicians in the appellate process.

a. Appeal cases requiring expert medical opinions must now be referred to sources outside of BVA, to include, but not limited to, selected medical schools and VHA to provide the necessary medical reviews.

b. For purposes of assisting the Board in providing timely and high-quality decisions to Veterans and other claimants, VHA physicians are able to provide thorough and evidence-supported medical reviews. VHA physicians have significant experience in diagnosing and treating the sometimes unique health problems of Veterans, as well as familiarity with VA processes and requirements. The majority of cases requiring medical expert opinion fall within the clinical practice areas of: internal medicine, cardiology, psychiatry, orthopedic surgery, and neurology. Although less frequent, there are appreciable numbers of requests for opinions in clinical areas of: rheumatology; ear, nose, and throat (ENT); pulmonary medicine; environmental medicine; and other sub-specialties.

3. POLICY: It is VHA policy that all VA medical facilities are to assist and collaborate with BVA's requests for medical reviews within 60 days (starting from the date all pertinent medical case review material is received).

4. ACTION

a. **Under Secretary for Health.** The Under Secretary for Health, or designee, is responsible for providing BVA with access to a consolidated listing of tertiary and affiliated VA medical facilities (including current contact information for the medical facility Director), see Web sites at: http://vaww1.va.gov/directory/guide/rpt_triad.cfm. *NOTE: This is an internal Web site and is not available to the public.* http://www4.va.gov/oaa/oaa_affiliations_list.asp.

b. **Medical Facility Director.** Each medical facility Director of a listed VA medical facility is responsible for:

THIS VHA DIRECTIVE EXPIRES SEPTEMBER 30, 2015

VHA DIRECTIVE 2010-044

September 29, 2010

(1) Ensuring that the requested medical advisory opinions are prepared by physicians employed by, or under contract to, VA medical facilities.

(2) Facilitating prompt resolutions of Veterans' appeals by ensuring that a completed medical advisory opinion is provided to BVA within 60 days (starting from the date all pertinent medical case review material is received).

(3) Ensuring that the claims file is promptly returned to BVA with the completed medical advisory opinion.

c. **BVA.** BVA is responsible for:

(1) Initiating and submitting all requests for medical advisory opinions to the Office of the Director at a VA medical facility selected from the approved VHA listing (see subpar. 4a.), to include ensuring each request:

(a) Clearly and concisely states the medical question(s) for which a medical advisory opinion is being sought;

(b) Contains 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 returned to BVA; and

(c) Provides a BVA point of contact for questions concerning the expert opinion request, or medical advisory opinion process.

(2) Distributing the caseload across appropriate VA medical facilities in an equitable manner, based on specialty needs, geographical location, and facility size, thereby placing minimal burden on any individual VA medical facility.

(3) Contacting VA's medical facility Director, or designee, to update operational guidelines or procedures as necessary.

(4) Providing a quarterly report on the 30th of October, January, April, and July to the Office of the Principal Deputy Under Secretary for Health, and the Office of Patient Care Services (to be shared with the Deputy Under Secretary for Health for Operations and Management) on the:

(a) Participation by VA medical facilities, (number of referred, accepted, and valid reason for non-acceptance);

(b) Number and type of cases referred by medical facility and Veterans Integrated Service Network;

(c) Timeliness of responses, (individual medical facility and aggregative percent of goal of less than, or equal to 60 days); and

(d) Quality of the medical advisory opinions in facilitating the adjudication process.

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. Questions may be addressed to (202) 461-7590.

7. RESCISSIONS: VHA Directive 2006-019, dated April 3, 2006, is rescinded. This VHA Directive expires September 30, 2015.

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Under Secretary for Health

DISTRIBUTION: E-mailed to the VHA Publications Distribution List 9/29/2010