

Manual M-2, Clinical Affairs. Part I, General

Chapter 28, Medical Review of Tort Claims (Paragraphs 28.01 through 28.04)

This document includes:

Memorandum, dated **July 23, 1985**

Contents page for M-2, dated **June 1989**

Title page and title page verso for M-2, Part I, dated **February 9, 1990**

Contents page and Rescissions pages for M-2, Part I, dated **April 7, 1995**

Text for Chapter 28, dated **August 15, 1986** (Change 79)

Transmittal sheet located at the end of the document:

Change 79, dated **August 15, 1986**



Veterans
Administration

Memorandum

Date:

From: Actg. ACMD for Clinical Affairs (11)

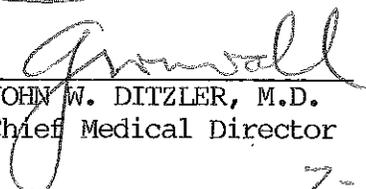
Subj: Redesignation of Manual M-2

To: Director, Regulations and Publications (10A1B)

VA Department of Medicine and Surgery Manual M-2, "Professional Services," has been redesignated as VA Department of Medicine and Surgery Manual M-2, "Clinical Affairs."


HOWARD D. COHN, M.D.

APPROVED/DISAPPROVED:


JOHN W. DITZLER, M.D.
Chief Medical Director

7-23-85

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07/29/85
JUL 25 1985

Regulations and Publications
Management Staff (10A1B)

June 1989

M-2 MANUALS

M-2

Part I General

Part II Chaplain Service

Part III Dietetic Service

Part IV Medical Service

Part IV Nuclear Medicine Service

Part V Nursing Service

Part VI Pathology & Allied Sciences Service

Part VI Drug Dependency Treatment Program

Part VII Pharmacy Service

Part VIII Physical Medicine & Rehabilitation Service

Part IX Prosthetic & Sensory Aids Service

Part X Psychiatry, Neurology & Psychology Service

Part XI Radiology Service

Part XII Social Work Service

Part XIII Medical & General Reference Library Staff - *Rees (see M-8, Pt III 8/14/87)*

Part XIV Surgical Service

Part XV Resc. by M-2, Part IV, Chg. 6(11-62) Pulmonary Disease (TB) Service

Part XVI Resc. by M-2, Part X (4-65) Vocational Counseling Service

Part XVII Voluntary Service - *M-1, Pt I, Ch 3*

Part XVIII Audiology & Speech Pathology (II 10-66-20, 6-8-66)

Part XIX ~~Extended Care Service (Domiciliary)~~ *Replaced by M-5*

XX Nuclear Medicine

XXI Vocational Counseling Service

XXII Prosthetic & Sensory Aids Service

XXIII *Blind Rehabilitation Service*

XXIV *Spinal Cord Injury*

**DEPARTMENT OF
VETERANS AFFAIRS**

PROGRAMS

**CLINICAL AFFAIRS
GENERAL**

**M-2, Part I
February 9, 1990**

**Veterans Health Services and
Research Administration
Washington, DC**

Department of Veterans Affairs
Veterans Health Services and
Research Administration
Washington, DC

February 9, 1990

Department of Veterans Affairs, Veteran Health Services and Research Administration Manual M-2, "Clinical Affairs," Part I, "General," is published for the compliance of all concerned.


JOHN A. GRONWALL, M.D.
Chief Medical Director

Distribution: RPC: 1024
FD

Printing Date: 2/90

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RESCISSIONS

The following material is rescinded:

1. COMPLETE RESCISSIONS

a. Manuals

Par. 112f, M10-3.

Pars. 129f and 169, M10-6.

M-2, Part I, changes 2 through 5 through 9, 11, 12, 13, 14, 16, 18 through 21, 25, 30, 32 through 40, 41, 44, 45, 49, 50, 51, 52, 55, 57, 60.

VHA Supplement MP-1, Part I, Chapter 2, Section A and Appendices D and E, change 43, dated October 27, 1987 (Effective October 1, 1992).

VHA Supplement MP-1, Part I, Chapter 2, Section A, change 44, dated July 26, 1991 (Effective October 1, 1992).

M-2, Part I, Chapter 35, dated August 7, 1992 and Supplements 1 and 2.

b. Interim Issues

II 10-156

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II 10-292, pars. I, II, III, App. A

II 10-300

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II 10-71-33

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c. Circulars/Directives

261, 1946, Sec.1

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 10-93-130
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e. Technical Bulletins

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 TB 10A-256
 TB 10A-295 (except sec. XXI)
 TB 10A-359
 TB 10A-324 (This completes the rescission of TB 10A-324.)

f. AB Station Letters and Other Communications

<u>Date</u>	<u>Subject</u>
December 5, 1949	Officer of the Day Reports
March 3, 1952	Furnishing of Meals to Officers of the Day
April 8 1952	Domiciliary Care for Paraplegics
April 16 1952	Transfer of Quadriplegic Patients
April 17, 1952	Accomplishment of Recheck Examinations and Treatment of current Conditions Involving Paraplegics at VA Hospitals Other Than Paraplegia Centers.
June 23, 1952	Monthly Report of Service-Connected Blinded Veterans and Blinded Military Personnel
August 18, 1952	Proposals for Membership, American College of Physicians
September 19, 1952	Establishment of Paraplegia Organizational Segment
January 4, 1954	Certificate of Medical Feasibility, VA Form 4555b

g. Instructions (pertaining to Public Law 702, 80th Congress, as amended)

Pars. 2d and 2e, Inst. 1-B
 Inst. 1C
 Inst. 1-D

2. LIMITED RESCISSIONS

The following material is rescinded insofar as it pertains to this manual.

a. Manuals

M10-3, par. 115h

a. Manuals - Continued

M10-6, pars. 9b, 42e, 70c, 86, and 132h
M10-11, pars. 22b, 92e, 96d, 133b, and 172

b. Circulars

10-65-57, pars.2 and 3

c. Regulations and Procedure

R&P 6130

d. Technical Bulletins

TB 10A-324

CHAPTER 28. MEDICAL REVIEW OF TORT CLAIMS**28.01 INTRODUCTION**

Title 38 CFR 14.605(b)(3) states, in part, "In medical malpractice cases the District Counsel may refer the medical records and statements to the District Medical Director for review and for professional opinion or guidance."

28.02 PURPOSE

To provide guidance for implementing the above regulation.

28.03 RESPONSIBILITY

a. Once a SF 95 (Claim for Damage, Injury, or Death) is filed, it becomes the responsibility of the District Counsel to investigate the facts of the incident giving rise to the complaint and to prepare the documents for use by the Department of Justice on which settlement or legal defense can be based. It is the responsibility of every member of DM&S to provide the District Counsel with facts and opinions required to fulfill their legal obligation. The duty to furnish information and testify freely applies equally to all VA health care personnel. It should be noted that this requirement applies to part-time personnel as well as full-time personnel. It also applies to full-time VA residents and medical students and part-time residents when on rotation at a VA facility.

b. During interviews (or formal depositions), health care personnel should be as accurate as memory permits. It is very important that District Counsel be provided with all the facts in order for them to effectively represent our interest and respond to our needs.

c. Frequently, the District Counsel will seek an evaluation of the case by a medical expert within the same medical district. The question most frequently asked will be whether VA personnel failed to provide the usual and customary standard of care required under similar circumstances. The expert's clear, open, objective, and complete response to this question is critical to the determination of the defensibility of the claim. The Medical District Director together with District Counsel will determine the best available sources for such expert opinion. The geographical location of medical experts should not be a deterrent to their selection. For example, they may be outside the VA; or, in rare circumstances, they may be located within the medical center where the incident occurred. The final decision to seek such opinion from any available source must remain with the District Counsel.

28.04 SUMMARY

Efficient settlement or defense of claims against the VA alleging medical negligence can be accomplished only by fully cooperative efforts among members of DM&S, General Counsel and the Department of Justice. Difficulties arising during the handling of any claims should be brought to the immediate attention of the ACMD for Clinical Affairs through the appropriate Regional Director (10BA_/11M) in order to effect prompt resolution.

10-16-86

Department of Medicine and Surgery
Veterans Administration
Washington, DC 20420

M-2, Part I
Change 79

August 15, 1986

Part I, "General," VA Department of Medicine and Surgery Manual M-2, "Clinical Affairs," is changed as follows:

NOTE: The purpose of this change is to implement regulations that state, in part, "In medical malpractice cases the District Counsel may refer the medical records and statements to the District Medical Director (sic) for review and for professional opinion or guidance."

Page xi: Delete "CHAPTER 28. (Reserved.)" and insert the following:

"CHAPTER 28. MEDICAL REVIEW OF TORT CLAIMS

28.01	INTRODUCTION	28-1
28.02	PURPOSE	28-1
28.03	RESPONSIBILITY	28-1
28.04	SUMMARY	28-1"

Page 28-1: Insert this page attached.

RESCISSIONS: Circulars 10-84-100 and 10-85-132.

JOHN W. DITZLER, M.D.
Chief Medical Director

Distribution: RPC: 1024
FD

Printing Date: 9/86