Department of Veterans Affairs
Veterans Health Administration
Washington, DC 20420

Amended

April 4, 2026

VHA DIRECTIVE 1083(1)
Transmittal Sheet
February 9, 2023

NOTIFICATION OF MEDICAL MALPRACTICE (TORT) CLAIMS TO INVOLVED STAFF MEMBERS AND NOTICE OF EMPLOYMENT STATUS TO THE OFFICE OF GENERAL COUNSEL

1. SUMMARY OF CHANGES:

a. Administrative amendment dated April 4, 2026:

(1) Provides clarity to Medical Center Directors on identification and notification of practitioners involved in a claim. The language in paragraph 2.h. now matches policy found in VHA Handbook 1100.17, National Practitioner Data Bank Reports section, 8.c.(1)(a)-(b). ***NOTE:*** *This amendment does not create new policy.*

(2) Removes required Notification Letter Templates attached as Appendices A-E, and provides a link to revised templates located at: https://dvagov.sharepoint.com/sites/vha17oqm/mlrm. ***NOTE:*** *This is an internal VA website that is not available to the public*.

(3) Removes reference to 38 CFR Part 46, Policy Regarding [VA's] Participation in the National Practitioner Data Bank, which was removed (rescinded) by Final Rule Published in the Federal Register, Vol. 90, No. 111, June 11, 2025.

b. As published, this directive:

(1) Updated the title of this directive to reflect its contents more accurately.

(2) Updated responsibilities for the Under Secretary for Health, the Assistant Under Secretary for Health for Quality and Patient Safety, the Assistant Under Secretary for Health for Operations, the Office of Medical-Legal Risk Management Director, the Veterans Integrated Services Network Director and the Department of Veterans Affairs (VA) medical facility Director in paragraph 2.

(3) Added a contractor notification letter template in Appendix E and updated the template notification letters in Appendices A through E to include more specific and standardized language. These letters must be used as written notice of a filed administrative tort claim alleging medical malpractice. ***NOTE****: Amendment dated April 4, 2026, removed the appendices and placed them on an internal SharePoint.*

2. RELATED ISSUES: VHA Directive 1093, Delegation of Authority to Process Tort Claims, dated May 21, 2020; VHA Handbook 1100.17, National Practitioner Data Bank (NPDB) Reports, dated December 28, 2009; VHA Directive 1100.20, Credentialing of Health Care Providers, dated September 15, 2021.

3. POLICY OWNER: The Office of Quality and Patient Safety, Office of Quality

Management, Office of Medical-Legal Risk Management (17QM7) is responsible for the contents of this directive. Questions may be addressed to VHA17QM7MedicalLegalRiskMgmtAction@va.gov.

4. RESCISSIONS: VHA Directive 1083(2), Notification of Medical Malpractice (Tort) Claims to Involved Practitioners, dated June 14, 2017, is rescinded.

5. RECERTIFICATION: This Veterans Health Administration (VHA) directive is scheduled for recertification on or before the last working day of February 2028. This VHA directive will continue to serve as VHA policy until it is recertified or rescinded.

6. IMPLEMENTATION SCHEDULE: This directive is effective upon publication.

BY DIRECTION OF THE OFFICE OF THE UNDER SECRETARY FOR HEALTH:

/s/ Gerard R. Cox, MD, MHA
Assistant Under Secretary for Health
for Quality and Patient Safety

NOTE: *All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.*

DISTRIBUTION: Emailed to the VHA Publications Distribution List on February 10, 2023.

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NOTIFICATION OF MEDICAL MALPRACTICE (TORT) CLAIMS TO INVOLVED STAFF MEMBERS AND NOTICE OF EMPLOYMENT STATUS TO THE OFFICE OF GENERAL COUNSEL

1. POLICY

It is Veterans Health Administration (VHA) policy that each Department of Veterans Affairs (VA) medical facility Director must provide written notification of a claim for medical malpractice to all staff members, including contractors and Health Professions Trainees (HPTs), who are identified by VA medical facility leadership based on a filed tort claim as involved in the episode of care that led to the claim. It is also VHA policy to ensure claimants are informed of the employment status of any staff member listed on the tort claim form, Standard Form (SF) 95 "Claim for Damage, Injury or Death". ***NOTE:*** *This directive ensures compliance with statutory requirements of notice to VHA staff members whose care is the subject of a claim for alleged medical malpractice and to the Office of General Counsel (OGC) Torts Law Group (TLG). This directive does not discuss the disclosure of adverse events to patients or their families; that information is found in VHA Directive 1004.08, Disclosure of Adverse Events to Patients, dated October 31, 2018. This directive also does not discuss either the tort claim post-payment review process that is administered by the VHA Office of Medical-Legal Risk Management (MLRM) or the National Practitioner Data Bank (NPDB) reporting required following an adverse clinical privileges action(see VHA Handbook 1100.17, National Practitioner Data Bank (NPDB) Reports, dated December 28, 2009).* **AUTHORITY:** P.L. 116-315, § 7010; 38 U.S.C. § 7301(b).

2. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for ensuring overall compliance with this directive.

b. **Assistant Under Secretary for Health for Quality and Patient Safety.** The Assistant Under Secretary for Health for Quality and Patient Safety is responsible for:

(1) Supporting the Office of Quality and Patient Safety (QPS) with implementation and oversight of this directive.

(2) Ensuring the Executive Director, Office of Quality Management (QM) has sufficient resources to fulfill responsibilities under this directive.

c. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

(1) Communicating the contents of this directive to Veterans Integrated Services Networks (VISNs).

(2) Assisting VISN Directors to resolve implementation and compliance challenges in all VA medical facilities within that VISN.

(3) Providing oversight of VISNs to ensure compliance with this directive and its effectiveness.

d. **Executive Director, Office of Quality Management.** The Executive Director, Office of QM is responsible for:

(1) Supporting the Office of QM with implementation and oversight of this directive.

(2) Overseeing the Office of MLRM to ensure compliance with responsibilities under this directive.

(3) Ensuring the Office of MLRM has sufficient resources, such as existing contracts and adequate personnel, to fulfill responsibilities under this directive.

e. **Director, Office of Medical-Legal Risk Management.** The Director, Office of MLRM, is responsible for:

(1) Providing oversight for VISN and VA medical facility compliance with this directive by reviewing quarterly VISN data submissions pertaining to VA medical facility medical malpractice tort claims and ensuring corrective action is taken when non-compliance is identified by a tort claim data submission. ***NOTE:*** *Policy pertaining to NPDB-related data submissions can be found in VHA Handbook 1100.17.*

(2) Coordinating with OGC, VISN and VA medical facility leadership on the management of the provider notification requirements and notice of employment status to OGC.

(3) Communicating changes in Federal Tort Claims Act (FTCA) standards, regulations and process requirements to VISN Directors for dissemination to VA medical facilities.

f. **Veterans Integrated Services Network Director.** The VISN Director is responsible for:

(1) Ensuring that all VA medical facilities within the VISN comply with this directive and informing leadership when barriers to compliance are identified.

(2) Ensuring continual compliance with FTCA regulations, process requirements and accreditation process requirements.

(3) Ensuring the VISN Chief Human Resources Officer is in compliance with this directive and appropriate corrective action is taken if non-compliance is identified.

(4) Collaborating with the Director, Office of MLRM, to disseminate information to VA medical facilities about changes in FTCA standards, regulations and process requirements regarding the notification of tort claims.

(5) Compiling data submissions received from VA medical facility Directors within the

VISN regarding VA medical facility tort claims and submitting a quarterly report to the Director, Office of MLRM, and ensuring corrective actions are taken when tort claim data submission is non-compliant.

g. **Veterans Integrated Services Network Chief Human Resources Officer.** The VISN Chief Human Resources Officer is responsible for providing written notice to the VA medical facility Director of the employment status of each individual listed on the tort claim (including any non-VA employee, e.g., contractor or other individuals not employed by VA) on the date(s) of the alleged incident. This notice must be provided within 20 calendar days from the date OGC TLG notifies the VA medical facility Director that a claim for medical malpractice has been filed under the FTCA.

h. **VA Medical Facility Director.** The VA medical facility Director is responsible for:

(1) Ensuring overall VA medical facility compliance with this directive and appropriate corrective action is taken if non-compliance is identified.

(2) Identifying all practitioners involved in the episode of care that led to the claim, including licensed independent practitioners, licensed professional staff members (e.g., nurses, pharmacists and HPTs), ancillary/unlicensed providers and staff members (e.g., surgical technicians and nursing assistants), contractors, and VA health care providers in a supervisory role.

(3) Providing written notification to all involved practitioners that a claim has been filed. This notice must be provided within 30 calendar days from the date OGC TLG notifies the VA medical facility Director that a claim for medical malpractice has been filed. *See* https://dvagov.sharepoint.com/sites/vha17oqm/mlrm for notification letter templates. ***NOTE:*** *The notification letter templates must be used for the written notice of a filed administrative tort claim alleging medical malpractice.*

(4) Providing written notice to the assigned OGC TLG investigator of the employment status of each individual listed on the tort claim (including any non-VA employee, e.g., contractor or other individuals not employed by VA) on the date(s) of the alleged incident. This notice must be provided within 30 calendar days from the date OGC TLG notifies the VA medical facility Director that a claim for medical malpractice has been filed under the FTCA.

(5) Ensuring the appropriate standardized information statement, provided in the Notification Letter Templates , is used when providing written notice of medical malpractice, supplemented with the information provided by OGC TLG regarding:

(a) Claimant's name and city and state of address, as provided on the SF 95, Claim for Damage, Injury, or Death.

(b) Date(s) the incident giving rise to the claim occurred.

(c) The incident described in the claim.

(d) Asserted basis of medical malpractice liability.

(e) Name, telephone number and email address of the OGC TLG investigator assigned to process the claim with encouragement to contact the investigator.

(6) Providing an electronic copy of the notice to the appropriately assigned OGC TLG investigator at the time the notice of the tort claim is given to the involved VA licensed independent practitioners, licensed professional staff members (e.g., nurses, pharmacists, contractors or HPTs), ancillary/unlicensed providers or staff members (e.g., surgical technicians and nursing assistants). A copy of the notice must be electronically forwarded to the appropriate assigned OGC TLG investigator at the time the notice originates to the licensed independent practitioners, licensed professional staff members (e.g., nurses, pharmacists, contractors and HPTs), ancillary/unlicensed providers or staff members (e.g., surgical technicians or nursing assistants).

(7) Providing updates to involved staff members as information becomes available on the status of claim processing. ***NOTE:*** *Examples of claim status changes include notice of claim denial by OGC TLG, claimant request for reconsideration by OGC TLG and the outcome of the reconsideration request, claimant files lawsuit in Federal court or payment of money damages by the Government necessitating case review by the Office of MLRM.*

(8) Ensuring communication updates are provided even if the staff member leaves VA employment or completes their health profession training program (e.g., resident or intern).

(9) Ensuring the VA medical facility obtains up-to-date contact information (e.g., home address and email address), for involved staff members.

(10) Collecting data on filed tort claims to be submitted quarterly to the VISN Director.

i. **VA Medical Facility Employees.** VA medical facility employees, including part-time and full-time employees, upon receipt of notification, are responsible for:

(1) Providing statements, testimony or medical opinions as accurately as memory permits to authorized VA representatives through interviews or formal depositions. ***NOTE*****:** *Authorized VA representatives include OGC and approved representatives from other Government agencies (e.g., Department of Justice and United States Attorney's Offices).*

(2) Cooperating with a medical malpractice investigation by furnishing information and providing authorized VA representatives with all relevant information. ***NOTE:*** *This also applies to full-time VA HPTs and part-time HPTs while on rotation at a VA medical facility, as well as medical students.*

(3) Obtaining approval from the assigned authorized VA representative before meeting with the claimant or a claimant's representative to discuss the assigned claim

or lawsuit.

3. TRAINING

There are no formal training requirements associated with this directive.

4. RECORDS MANAGEMENT

All records regardless of format (e.g., paper, electronic, electronic systems) created by this directive must be managed as required by the National Archives and Records Administration (NARA) approved records schedules found in VHA Records Control Schedule 10-1. Questions regarding any aspect of records management should be addressed to the appropriate Records Officer.

5. BACKGROUND

a. VA health care providers must be aware of medical malpractice tort claims related to their practice because of the possibility of post-payment reporting to NPDB. VHA must report certain malpractice payments to NPDB and appropriate state licensing boards. These reports are required by the Health Care Quality Improvement Act of 1986 (42 U.S.C. §§ 11101-11152) which established NPDB and a Memorandum of Understanding between VA and the United States Department of Health and Human Services. VHA's reporting requirements are outlined in VHA Handbook 1100.17 and apply to all licensed VA health care providers involved in patient care as outlined by NPDB's occupation and field of licensure codes. ***NOTE:*** *NPDB's occupation/field of licensure codes can be accessed at:* *https://www.npdb.hrsa.gov/resources/FOLUpdates.jsp*.

b. Federal law mandates that claimants be notified of the "employment status of any individual listed" on a tort claim. ***NOTE:*** *See P.L. 116-315, § 7010.*

6. DEFINITIONS

a. **Claimant.** For the purpose of this directive, a claimant is someone who asserts a claim.

b. **Episode of Care.** Episode of care means the care provided by a health care facility or practitioner for a specific medical problem or condition or specific illness during a set time period.

c. **Medical Malpractice.** A claim of medical malpractice is a written claim or demand for payment based on an act or omission of a physician, dentist or other health care practitioner in furnishing (or failing to furnish) health care services and includes the filing of a complaint or administrative tort claim under FTCA.

d. **Tort.** Tort means a wrongful act, including medical malpractice, personal injury or property damage, for which relief may be obtained in the form of damages.

e. **Tort Claim.** For purposes of this directive, tort claim refers to medical malpractice torts only. A tort claim is an administrative claim filed by a patient, or on behalf of a patient, alleging medical malpractice by a staff member or medical entity.

7. REFERENCES

a. P.L. 116-315, § 7010.

b. 28 U.S.C. §§ 1346(b), 2671-2680.

c. 38 U.S.C. §§ 515, 7301(b), 7316.

d. 42 U.S.C. §§ 11101-11152.

e. VHA Directive 1004.08, Disclosure of Adverse Events to Patients, dated October 31, 2018.

f. VHA Handbook 1100.17, National Practitioner Data Bank Reports, dated December 28, 2009.

g. Memorandum of Understanding between the Secretary of Veterans Affairs and the Secretary, Health and Human Services, effective October 1, 1990.

h. United States Department of Health and Human Services, National Practitioner Data Bank Field of Licensure Updates and Report Input Changes, available at: https://www.npdb.hrsa.gov/resources/FOLUpdates.jsp.

i. United States General Services Administration, Standard Form 95, Claim for Damage, Injury, or Death, available at: https://www.gsa.gov/forms-library/claim-damage-injury-or-death.

j. VHA Office of Quality and Patient Safety, Medical-Legal Risk Management, Tort Claim Notification Sample Letters. NOTE: This site is internal to VA and is not available to the public. ***NOTE:*** *This site is internal to VA and is not available to the public.*

k. VHA Office of Quality and Patient Safety, Medical-Legal Risk Management Frequently Asked Questions, available at: https://vaww.qps.med.va.gov/divisions/qm/mlrm/mlrmFAQs.aspx. ***NOTE:*** *This site is internal to VA and is not available to the public.*