

June 25, 2021

REVIEW OF VHA OPERATIONAL MEMORANDA

Amendment dated July 12, 2021 updates paragraph 3.b.(3)(b) with the following email groups, VHA VISN Deputy Directors: VHAVISNDND@va.gov and VHA VISN CMO Only: VHAVISNCMOOnly@va.gov.

1. PURPOSE

This Veterans Health Administration (VHA) notice establishes requirements for the review of informational and operational memoranda at VHA. **NOTE:** *All resource materials located in the appendices are co-located on the VHA Operational Memoranda SharePoint available here:*

<https://dva.gov.sharepoint.com/sites/VHAOperationalMemoranda>. *This is an internal VA website that is not available to the public.*

2. BACKGROUND

a. In 2015, the Government Accountability Office (GAO) placed VHA on the High-Risk List citing ambiguous policies and inconsistent processes. As the Office of Regulations, Appeals and Policy has taken steps to address the GAO concerns through establishing a rigorous review process and increasing transparency and field involvement, existing operational memoranda and program offices reliance on issuing operational memoranda in lieu of VHA national policies remain a concern.

b. Operational memoranda (formerly called 10N memoranda) are often viewed as a form of VHA “policy” by users and oversight bodies, and on occasion, have amended or contradicted national policies. Operational memoranda are not subjected to the same level of institutional review or scrutiny as VHA national policy and do not have the same level of authority. VHA national policy is defined by VHA Directive 6330(4) Controlled National Policy/Directives Management System, dated June 24, 2016.), and no other types of documents are recognized as national policy.

c. In 2020, the Assistant Under Secretary for Health for Operations directed a multidisciplinary team to analyze and improve the process for communicating information from VHA Central Office (VHACO) to the field (i.e., Veterans Integrated Service Network (VISN) Directors and VA medical facilities). This policy presents a standardized process for communications to the field. **NOTE:** *See Appendix A for the Intake Checklist and Appendix B for the process flow of communications from VHACO to the field.*

3. DEFINITIONS

a. **VHA Informational Memoranda.** Informational memoranda are announcements that do not require immediate action. Examples include but are not limited to site visit announcements and awards. **NOTE:** *See Appendix A for the Intake Checklist.*

b. **VHA Operational Memoranda.** Operational memoranda are supplemental guidance that establish a course of action consistent with VHA national policy from VHACO to the field. Operational memoranda are not policy; and their authority are limited to that of the issuer(s) only.

c. **VHA National Policy.** VHA national policy establishes standards, a mandatory and definite course of action for VHA, and assigns responsibilities for executing that course to identifiable individuals or groups within VHA. VHA national policy is issued under the authority of the Under Secretary of Health, or designee, and is either a directive or a notice. VHA national policy must not meet the definition of a “rule” under the Administrative Procedures Act (5 U.S.C. 551 et seq.). **NOTE: Only directives and notices are considered VHA national policy. Handbooks, manuals, and memoranda signed by the Under Secretary for Health that were certified before June 24, 2016 will continue to serve as national policy until rescinded. VHA Handbook 1004.03, Life-Sustaining Treatment Decisions: Eliciting, Documenting, and Honoring Patient's Value, Goals and Preferences, published January 11, 2017 is excluded from this requirement and remains policy until its next recertification.**

d. **VHA Upper Level Leadership.** VHA Upper Level Leadership means positions to whom the Under Secretary for Health delegates signature, oversight, and decisional authority of VHA national policy. This includes:

(1) Deputy Under Secretary for Health.

(2) VHA Chief of Staff.

(3) Each Assistant Under Secretary for Health (or Assistant Deputy Under Secretary for Health).

(4) Certain other senior leaders who, in rare instances, have responsibility for one or more VHA national policy.

2. MINIMUM REQUIREMENTS FOR ALL OPERATIONAL MEMORANDA

a. **Operational Memoranda Issued Prior to the Publication of this Notice.**

(1) All operational memoranda not published on VHA Forms and Publications website at: <https://vaww.va.gov/vhapublications/index.cfm> are rescinded without further action and no longer in force. **NOTE: This is an internal VA website that is not available to the public.**

(2) All operational memoranda published on VHA Forms and Publications website remain valid until April 30, 2022; the content is integrated by the responsible program office into governing VHA national policy (new or recertified); the operational memorandum is republished as an operational memorandum; or the operational memorandum is rescinded. **NOTE: The date, April 30, 2022 is the expiration date as published in VHA Notice 2020-36, Maintaining VHA's Policy Establishing Documents, dated November 19, 2020. This date, April 30, 2022 remains the expiration date for**

memoranda that were published prior to November 19, 2020. VHA Notice 2020-36 is rescinded upon publication of this notice (see paragraph 6).

b. **Operational Memoranda Issued After the Publication of this Notice.** All operational memoranda establishing national guidance and issued after the publication of this notice must be published on VHA Forms and Publications website: <https://vaww.va.gov/vhapublications/index.cfm> and are subject to the following:

(1) **Concurrence.** All operational memoranda issued under the authority of the Assistant Under Secretaries for Health require concurrence by the Assistant Under Secretary for Health for Operations, Assistant Under Secretary for Health for the VHA entity sponsoring the operational memorandum, and the Office of Regulations, Appeals and Policy. **NOTE:** *This is a minimum concurrence requirement; additional stakeholder concurrences may be necessary based on subject matter.*

(2) **Contact Information.** All operational memoranda must include the contact information (email address) of the subject matter expert or email group responsible for the content.

(3) **Expiration Date.** All operational memoranda published after June 25, 2021, will expire without further action 2 years after publication. The entity issuing the operational memorandum can identify an expiration date earlier than 2 years after publication.

(a) Expiration dates must be annotated on the face of the operational memorandum.

(b) An entity responsible for an operational memorandum issued after the date of this notice, may republish the memorandum before it expires, and the memorandum will continue in force for another 2 years.

NOTE: *Independent publication of operational memoranda including but not limited to: Patient Safety Notices, EthicsRx and News Flash; is suspended.*

(4) **Conversion to VHA National Policy.**

(a) Any proposed operational memorandum that establishes mandatory VHA-wide standards, rights, or responsibilities (that extend beyond reasonable professional bounds) must be converted into VHA national policy, either an Under Secretary for Health memo or integrated into an appropriate VHA national policy. Pursuant to VHA Directive 6330(4), the notice is effective for 1 year after publication, during which time the notice must be integrated into a new or recertified VHA national policy. **NOTE:** *For information on material which constitutes policy and material which is better suited to non-policy documents such as standard operating procedures, please contact the Office Regulations, Appeals and Policy (10BRAP): VHA10BRAPPolicy@va.gov.*

(b) VHA national policy automatically rescinds any operational memoranda that should be in a VHA national policy document and was published in the wrong format.

(5) **Training.** Any operational memoranda that mandate VHA employee training must comply with VHA Directive 1052, Appropriate and Effective Use of VHA Employee Mandatory and Required Training, dated June 29, 2018. **NOTE:** For more information, contact: VHACO10A2AWS@va.gov.

(6) **Checklist.** All operational memoranda must be consistent with the Intake Checklist for VHA Memoranda (see Appendix A).

3. RESPONSIBILITIES

a. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for: communicating the contents of this notice to the VISN Directors.

b. **VHA Upper Level Leadership.** VHA Upper Level Leadership drafting and sending operational memoranda to the field are responsible for:

(1) Ensuring VIEWS assignments include a completed checklist when accompanying an operational memorandum (see checklist located in Appendix A).

(2) Reviewing and remedying (on a continual basis) all published and proposed operational memoranda under their purview.

(3) Disseminating approved memos to the following email groups:

(a) VHA VISN Directors: VHAVISNDirectors@va.gov.

(b) VHA VISN Deputy Directors: VHAVISNDND@va.gov.

(c) VHA VISN CMO Only: VHAVISNCMOOnly@va.gov.

(d) VHA VISN Admin Reps: VHAVISNAdminReps@va.gov.

(e) VHA 10BRAP Policy: VHA10BRAPPolicy@va.gov.

(4) Including the Email address of a point of contact for questions.

(5) Monitoring for process oversight and consistent implementation in accordance with standards set by the governing body for VHA policy management.

(6) Following the process for review of operational memoranda with national distribution (see process located in Appendix B).

c. **Chair, VHA Policy Management Governance Group.** The Chair of the VHA Policy Management Governance Group is responsible for developing, in coordination with the Assistant Under Secretary for Health for Operations, a process for review of operational memoranda with national distribution **NOTE:** All operational memoranda are reviewable by this governing body to ensure compliance with the review process and Intake Checklist for VHA Memoranda.

d. **Senior Advisor, VHA Office of Regulatory and Administrative Affairs.** The Senior Advisor, VHA 10BRAP is responsible for:

(1) Reviewing and concurring on all operational memos with national distribution within 2 business days. 10BRAP reviews operational memoranda for the following items: consistency with VHA national policy, unfunded mandates, mandatory training, Union concurrence, and Office of General Council consults. 10BRAP reviews must be consistent with the process for review of operational memoranda.

(2) Publishing operational memoranda distributed by VHA Upper Level Leadership.

4. VHA Notice 2020-36, Maintaining VHA's Policy Establishing Documents, dated November 19, 2020 is rescinded.

5. All inquiries concerning this action should be addressed to the Office of Regulations, Appeals and Policy (10BRAP). **NOTE:** *To revise or rescind previous guidance, please contact VHA10BRAPPolicy@va.gov and VHA 15 Operations: VHA15OperationsSS@va.gov.*

6. This VHA notice will be archived as of June 30, 2022.

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

/s/ Jon Jensen
Chief of Staff

DISTRIBUTION: Emailed to the VHA Publications Distribution List on June 29, 2021.

INTAKE CHECKLIST

1. Is this a policy? No. [see **2.a.** and **2.b.**]. **NOTE:** *If the document establishes standards, a mandatory and definite course of action for VHA, and assigns responsibilities for executing that course to identifiable individuals or groups within VHA, email: VHA10BRAPPolicy@va.gov for assistance.*

2. Document Category: [Operational Memoranda (see **2.a.**) or Informational Memoranda (see **2.b.**)]. **NOTE:** *Please only complete the section that applies to the document category.*

a. Operational Memorandum.

(1) Resources: [If any, please list] _____.

(2) Leadership: _____.

(3) Distribution: [Please list recipients] _____.

(4) Topic: Please identify the topic using the list below (a) through (g).

(a) Finance.

(b) Leadership.

(c) Quality Management.

(d) Human Resources.

(e) Labor.

(f) Training.

(g) IT.

(h) Other [Please list] _____.

(5) Required Action/ Tasking: [If any, please list] _____.

(6) Cited Policy/ Authority: [If any, please list] _____.

(7) Mandatory Performance: [If any, please list] _____.

b. Informational Memorandum. NOTE: *Please confirm the following information.*

(1) No Resources Required. (If required, use VHA notice (email VHA10BRAPPolicy@va.gov for assistance) or operational memorandum, see 2.a. above).

(2) No Immediate Action Required.

(3) No Accountability/ Oversight, (if auditable, or performance is required, use VHA notice (email VHA10BRAPPolicy@va.gov for assistance) or operational memorandum, see 2.a. above).

(4) No Required Authority.

PROCESS FLOW FOR INFORMATIONAL AND OPERATIONAL MEMORANDUM

