Department of Veterans Affairs
Veterans Health Administration
Washington, DC 20420

VHA DIRECTIVE 1085
Transmittal Sheet
February 8, 2017

SMOKE-FREE POLICY FOR VA HEALTH CARE FACILITIES

1. REASON FOR ISSUE: This Veterans Health Administration (VHA) directive provides comprehensive smoke-free policy for the Department of Veterans Affairs (VA) health care facilities.

2. SUMMARY OF MAJOR CHANGES: This updated VHA directive outlines the specific policy that VHA follows to comply with the requirements of Public Law (Pub. L.) 102-585, section 526, Use of Tobacco Products in Department Facilities, codified as a note to Title 38 United States Code (U.S.C.) 1715. Significant changes include: identification of the Assistant Deputy Under Secretary for Health for Administrative Operations as the operational lead for this directive; updates about scientific evidence regarding the adverse health effects of secondhand smoke exposures; clarification that Community-Based Outpatient Clinics (CBOCs) are not included in the list of VA facilities required to provide smoking areas for Veteran patients; inclusion of additional measures to decrease exposures to secondhand smoke to protect the health of Veterans and VHA employees; expansion of the prohibition of sales or distribution of tobacco products on VHA grounds to include electronic nicotine delivery systems (such as electronic cigarettes); guidance that will allow sites to determine when inpatients should not be allowed to leave inpatient units to smoke, when "consistent with medical requirements and limitations;" restrictions on the use of electronic nicotine delivery systems (ENDS) to designated smoking areas; and safety measures in designated smoking areas to prohibit use of oxygen cylinders and oxygen delivery devices within such areas.

3. RELATED ISSUES: None.

4. RESPONSIBLE OFFICE: The Assistant Deputy Under Secretary for Health for Administrative Operations (10NA) and the Assistant Deputy Under Secretary for Health for Patient Care Services (10P4) are responsible for the contents of this directive. Questions may be referred to VHA10NA3Action@va.gov (10NA) or 202-461-7800 (10P4).

5. RESCISSIONS: VHA Directive 2008-052, dated August 26, 2008, is rescinded.

6. RECERTIFICATION: This VHA directive is scheduled for recertification on or before the last working day of February 2022. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

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Under Secretary for Health

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1. PURPOSE

This Veterans Health Administration (VHA) directive provides comprehensive smoke-free policy for the Department of Veterans Affairs (VA) health care facilities. **AUTHORITY:** Title 38 United States Code (U.S.C.) 1715 note, Public Law (Pub. L.) 102-585, section 526; 38 U.S.C. 7301(b).

2. BACKGROUND

a. All VA medical facilities have had a smoke-free policy since 1991, with smoking allowed only in designated areas. This policy applies to all patients, visitors, contractors, volunteers, and employees.

b. In 1992, Congress passed the Veterans Health Care Act of 1992, Pub. L. 102-585. Section 526, Use of Tobacco Products in Department Facilities, is codified as a note to 38 U.S.C. 1715. This section requires that each VA "medical center, nursing home or domiciliary care facility" establish and maintain a suitable indoor smoking area for patients or residents and provide access to such area "consistent with medical requirements and limitations, for patients or residents of the facility who are receiving care or services and who desire to smoke tobacco products." Following enactment of section 526, policy was implemented to define these smoking areas as shelters or buildings detached from the facility, accessible to the patients or residents, and with appropriate heating and air conditioning. In 1997, Executive Order 13058 established a policy of providing smoke-free indoor environments for Federal employees and members of the public visiting or using Federal facilities, consistent with other laws, policies and collective bargaining agreements.

c. As the nation's largest integrated health care system, VHA has a strong commitment to protecting and ensuring the health of Veterans, employees, visitors, and volunteers. It is the policy of VHA to reduce all hazardous health exposures and fire hazards associated with smoking through the reduction of secondhand smoke exposures. This policy is consistent with the scientific evidence on the adverse effects of tobacco smoke and with VA's obligation to provide a safe environment and protect the health of Veterans and employees. VHA also has a strong commitment to improve health care for Veterans and employees through increased access to evidence-based smoking cessation care.

d. Since the 1990s, there has been a large body of clinical research providing strong evidence of the harmful health effects of indoor exposures to secondhand smoke. In 2006, this evidence was reviewed and published in a landmark Surgeon General's Report, "The Health Consequences of Involuntary Exposure to Tobacco Smoke," which reported that "[s]econdhand smoke causes premature death and disease in children and in adults who do not smoke." In addition, the Surgeon General's Report concluded, "[e]liminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning

the air, and ventilating buildings cannot eliminate exposure of nonsmokers to secondhand smoke…. The operation of a heating, ventilating, and air conditioning system can distribute secondhand smoke throughout a building." The Report highlighted the difficulties of providing an indoor area within a larger facility in a way that is consistent with medical requirements and limitations, as required by Pub. L. 102-585, section 526, given its conclusions that:

(1) "The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke." See also U.S. Surgeon General's Report 2010, 2014.

(2) The use of separate ventilation, heating, and air conditioning systems used in indoor smoking areas does not control exposure to smoke and, in fact, may distribute secondhand smoke throughout a building.

e. These findings were expanded upon by the 2014 U.S. Surgeon General's Report and include the following:

(1) Since 1964, approximately 2.5 million of the 20 million smoking-related deaths in the U.S. have been among nonsmokers who died from diseases caused by exposure to secondhand smoke.

(2) It is estimated that exposures to secondhand smoke account for more than 7,300 deaths from lung cancer, approximately 33,950 deaths from coronary heart diseases, and over 400 newborn deaths from sudden infant death syndrome (SIDS) in the United States each year.

(3) Secondhand smoke is now known to cause strokes in nonsmokers.

f. Over the last two and a half decades, the findings of the harmful health effects of smoking and secondhand smoke exposures have led to the enactment of smoke-free policies in many workplaces and communities, including over 3.940 private and state hospitals and four national health care systems, which have adopted 100 percent smoke-free grounds to provide protection of all employees, visitors, and patients from secondhand smoke exposures within their campuses – including, but not limited to all facility buildings, outdoor areas, and parking lots. There has been increasing epidemiological evidence that laws to enforce smoke-free worksites and public places are associated with a reduced incidence of admissions for heart attacks in communities with such bans. Adults with underlying heart or lung disease, as well as pregnant women, infants, and children, all appear to be at an even higher risk than the general population for adverse health effects related to secondhand smoke exposures.

g. While many VHA facilities are required by Pub. L. 102-585, section 526, to provide smoking areas for patients and residents, additional measures can be put in place to further decrease exposure to secondhand smoke for VHA patients, residents, employees, visitors, and volunteers and to promote tobacco use cessation for Veterans and for employees.

3. POLICY

It is VHA policy that, consistent with its core health mission, VHA will take measures to protect Veterans, employees, volunteers, and visitors from the harmful effects of secondhand smoke to the greatest extent allowed by law.

4. TOBACCO USE AND SMOKE-FREE POLICY IMPLEMENTATION

a. Title 38 CFR 1.218(a)(3) prohibits the creation of any hazard to persons or things on property under the charge and control of VA (and not under the charge and control of the General Services Administration). VA interprets the harmful effects of secondhand smoke to constitute a hazard to persons. As such, the smoking of cigarettes, cigars, or any combustible tobacco products by any patient, visitor, volunteer, contractor, vendor, or employee is prohibited on the grounds of all VA health care facilities, except in designated smoking areas. This prohibition includes the use of non-FDA approved electronic nicotine delivery systems (ENDS), including but not limited to electronic or e-cigarettes, vape pens or e-cigars, as little is known about their potential safety and/or risk to others. Further, their use imposes greater enforcement issues as it is difficult to distinguish them from traditional cigarettes. The inclusion of ENDS is consistent with smoke-free policies of many hospital and university campus grounds, other Federal agencies, and U.S. military medical treatment facilities. ***NOTE:*** *General Services Administration (GSA) Order ADM 5800.1C prohibits the smoking of tobacco products in all government –owned or -leased vehicles assigned to GSA, as well as GSA-occupied space.*

b. Oxygen cylinders and other oxygen delivery equipment are not permitted within designated smoking areas. All patients, employees, visitors, and contract workers will be informed of these requirements. ***NOTE:*** *This is an important safety issue as there have been adverse events (fires involving smoking and oxygen use) in the past resulting in hazards and life-threatening injuries to patients and staff. See VHA Directive 2006-021, Reducing the Fire Hazard of Smoking When Oxygen Treatment is Expected, or subsequent policy issue, for further information.*

c. In accordance with the requirement in Pub. L. 102-585, section 526, that a smoke-free policy be "consistent with medical requirements and limitations," inpatients who are at-risk or who need an escort's assistance to get to a smoking area will be provided with nicotine replacement therapy (NRT), unless the use of NRT is medically contraindicated. This policy is medically appropriate for these patients and will protect the health of employees, who will escort fewer patients to smoking areas.

d. Designated smoking areas shall be no closer than 35 feet to any entrance or building opening (e.g., air intake units/vents, windows that open) that could allow secondhand smoke to enter.

e. VHA will not participate in the sale of tobacco products because the sale or distribution of tobacco products is inconsistent with VA's mission as a national leader in disease prevention and health promotion. This includes ENDS or any other nicotine

delivery device that has not been FDA-approved as a smoking cessation aid or medication. In addition, sales or distribution of free tobacco products, ENDS, or any non-FDA approved nicotine product by any groups will not be permitted on VHA grounds.

f. Community-Based Outpatient Clinics (CBOCs) are not included in the list of "covered facilities" required by section 526 of Pub. L. 102-585 to have smoking areas for Veteran patients. Therefore, CBOCs, and other VA medical facilities that are not a medical center, nursing home, or domiciliary care facility are not required to provide smoking areas and are permitted to adopt smoke-free ground policies, except in the instance of where collective bargaining agreements have required such areas for employees.

g. Many Department of Defense (DoD) Medical Treatment Facilities (MTF) have adopted "tobacco-free" campus grounds, prohibiting the use of any tobacco products. In the instances of co-located VA-DoD facilities, the smoke-free policy of VA should be followed when the facility is on the grounds of a VA medical center. If the co-located facility is on the grounds of a DoD MTF, then DoD policy should be followed.

h. All inpatients should be routinely screened for smoking status upon admission. NRTs and other smoking cessation medications on the VHA national formulary should routinely be used with inpatients identified as smokers to prevent nicotine withdrawal, unless otherwise medically contraindicated (see the U.S. Public Health Service Clinical Practice Guideline: Treating Tobacco Use and Dependence: 2008 Update). ***NOTE:*** *For additional information, see VHA Directive 2006-021, Reducing the Fire Hazard of Smoking When Oxygen Treatment is Expected*, *or successor directives*.

i. Consistent with VHA Directive 2010-041, Smoking Cessation Benefit for VHA Employees: No-cost Provision of Nicotine Replacement Therapy, or subsequent policy issue, VA health care facilities will promote the availability of smoking cessation programs and clinical resources for employees, including access to free over-the-counter NRT.

5. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for:

(1) Establishing overall strategic priorities for VHA.

(2) Ensuring a safe and functional environment for patients, visitors, employees, and volunteers.

b. **Assistant Deputy Under Secretary for Health for Administrative Operations.** The Assistant Deputy Under Secretary for Health for Administrative Operations is responsible for:

(1) Ensuring that Veterans Integrated Service Network (VISN) Directors have sufficient resources to provide designated smoking areas for Veteran patients, as

required by section 526 of Pub. L. 102-585 and for employees, as outlined in relevant collective bargaining agreements.

(2) Providing oversight of VISNs to assure compliance with this Directive, relevant standards, and applicable regulations.

(3) Providing technical assistance and support on questions related to construction, engineering, and fire safety requirements for smoking shelters in new VHA health care facilities, as well as appropriate maintenance of existing smoking shelters.

c. **Assistant Deputy Under Secretary for Health for Patient Care Services.** The Assistant Deputy Under Secretary for Health for Patient Care Services is responsible for:

(1) Providing guidance to VHA leadership, medical facility Directors, and health care professionals regarding scientific updates on the health effects of secondhand smoke exposures as they become available.

(2) Providing ongoing clinical training to VA health care providers to inform them of the appropriate use of tobacco use screening and smoking cessation medications for outpatient and inpatient populations.

(3) Providing consultation to medical facility Directors and health care professionals on policies to increase the use of smoking cessation medications to prevent withdrawal among patients who have been identified as tobacco users during inpatient admissions.

(4) Providing clinical consultations as needed to Network and medical facility Directors on questions related to the development and implementation of local policy that is "consistent with medical requirements and limitations," such as questions about inpatient populations' access to smoking areas.

NOTE: *It is strongly recommended that VA medical facility Directors take steps to reduce the number of smoking areas and to designate areas for patients and residents that are separate from the areas designated for employees and staff so as to discourage employees and staff from smoking with patients and residents. A number of VA medical facilities have been successful in reducing the number of areas to one for patients and residents, and one for employees and staff. Such measures can be effective in not only reducing secondhand smoke exposures, but in reducing costs associated with heating, cooling, and cleaning these areas, and reducing maintenance, monitoring and policing costs associated with these areas.*

d. **Veterans Integrated Service Network Director.** The VISN Director or designee is responsible for:

(1) Ensuring that VA medical facility Directors have sufficient resources to provide designated smoking areas for Veteran patients, as required by Pub. L. 102-585, section 526, and for employees, as outlined in relevant collective bargaining agreements.

(2) Providing oversight of VA medical facilities to assure compliance with this Directive, relevant standards, and regulations.

e. **VA Medical Facility Director.** The VA medical facility Director, or designee, is responsible for:

(1) Ensuring that the medical facility has an area in a detached building as a smoking area for patients or residents that is accessible, heated and air-conditioned as appropriate, and meets The Joint Commission requirements for ventilation. ***NOTE:*** *Such areas have in the past been referred to as "shelters" or "outdoor" smoking areas.*

(2) Ensuring that there are no indoor smoking areas inside a VA medical facility, such as indoor areas with separate ventilation systems on an inpatient unit, lobby, or community living center.

(3) Reducing unintended exposures to secondhand smoke by ensuring that there are not any smoking areas closer than 35 feet to any entrance or building opening (e.g., window or air intake/vent, windows that open) that could allow secondhand smoke to enter.

(4) Developing appropriate signage for installation at each VA medical facility indicating that the facility is smoke-free and that smoking is allowed only at designated smoking areas. Signs should include information or maps clearly identifying all designated areas and should be prominently displayed at areas such as entrances to the facility and parking areas.

(5) Enforcing the current ban on all sale or distribution of cigarettes, tobacco products, and electronic nicotine delivery systems to all patients, residents, employees, visitors, and volunteers on VHA grounds.

(6) Promoting the use of NRT to manage and prevent nicotine withdrawal of VHA inpatient or long-term care patients as part of routine care, as outlined in the2008 Update of the U.S. Public Health Service Clinical Practice Guideline- Treating Tobacco Use and Dependence.

(7) Ensuring that VHA staff members and volunteers shall not be required to escort patients to smoking areas, in accordance with their right to protect their own health and not be exposed to secondhand smoke.

(8) Coordinating with human resources and labor management relations staff to ensure compliance with collective bargaining agreement language regarding access to smoking areas.

(9) Developing, publishing and implementing a local smoke-free policy that is consistent with this directive. The policy must:

(a) Be communicated, both verbally and in writing, to patients, residents, visitors, employees and staff.

(b) Identify a local plan for enforcement of the smoke-free policy, with clear identification of personnel responsibilities. ***NOTE:*** *All employees need to be encouraged to assist in enforcing the policy as part of the VA health care mission of promoting health and ensuring the safety of patients, residents and staff.*

(c) Assign appropriate staff, such as Police Service, to remind individuals who are not complying with the smoke-free policy of the policy in a helpful manner; however, if verbal communication is ineffective in promoting compliance, a courtesy violation Notice, can be issued by VA Police.

(d) Be posted, along with the facility's smoking and tobacco use cessation resources, including any telehealth smoking cessation resources, in the designated area in the detached building so as to provide additional information to smokers who may be interested in quitting.

(e) Restrict smoking to the designated smoking areas.

(f) Provide clear language on VHA policy on the availability of free over-the-counter NRT to VHA employees, as outlined in VHA Directive 2010-041, or subsequent policy issue.

6. REFERENCES

a. Public Law 102-585, section 526.

b. Presidential Executive Order 13058, "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace."

c. The Joint Commission Environment of Care Standards EC.02.01.03 and EC.02.03.01.

d. American Nonsmokers' Rights Foundation. 100% Smoke-free U.S. Hospitals and Nursing Homes: http://www.no-smoke.org/pdf/smokefreehealthcare.pdf (Accessed November 21, 2016). ***NOTE:*** *This linked document is outside VA control and may or may not conform to Section 508 of the Rehabilitation Act of 1973.*

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