



DEPARTMENT OF THE NAVY

BUREAU OF MEDICINE AND SURGERY

2300 E STREET NW

WASHINGTON DC 20372-5300

IN REPLY REFER TO

BUMEDINST 5830.1A

BUMED-M362/M00J

8 Jan 2008

BUMED INSTRUCTION 5830.1A

From: Chief, Bureau of Medicine and Surgery

To: Ships and Stations Having Medical Department Personnel

Subj: HEALTH CARE INVESTIGATION-PROCEDURES FOR SPECIALTY REVIEWS

Ref: (a) Manual of the Judge Advocate General, Chapter 2

(b) DOD 6025.13-R of June 11, 2004

(c) Title 10 U.S.C. § 1102

Encl: (1) Accessing Specialty Leader List

(2) Sample Specialty Leader Appointing Letter to Specialty Reviewer

(3) Sample Specialty Reviewer Letter to Investigating Officer

1. Purpose. Timely, thorough, and unbiased specialty reviews are essential for objective analysis of potential medical malpractice claims against the Navy, and improving the quality of Navy Medicine. This instruction provides authority for all commanding officers convening health care investigations under reference (a) to obtain necessary specialty reviews prior to endorsing health care investigations. Adherence to this procedure will streamline the specialty review process and provide subject specific expertise to investigating officers and commanding officers in preparation and endorsement of health care investigations.

2. Cancellation. BUMEDINST 5830.1.

3. Policy. In order to ensure a valid, unbiased, impartial review of the standard of care, BUMED requires the review be done externally to the command following a standard format per reference (a). The impartiality of this document is critical to any future National Practitioner Data Bank reviews completed by BUMED designated panels. A complete, comprehensive review shall state the standard of care for any practices, procedures, policies, protocols, or systems involved in the incident and the basis which establishes that standard of care. Reference (b) defines Standard of Care as "Healthcare diagnostic or treatment judgments and actions of a provider generally accepted in the healthcare discipline or specialty involved as reasonable and appropriate." Specialty reviews are one mechanism that Navy Medicine uses to monitor the professional performance of all our health care providers to ensure those standards are met in accordance with our quality assurance oversight process.

4. Responsibilities

a. Commanding Officer Responsibilities. When a commanding officer convenes a health care investigation, clinical specialties potentially involved shall be identified and the respective specialty leaders notified and provided with a brief synopsis of the case. Synopsis includes identifying the providers involved in the care in question and their level of training. Any time a trainee (Intern or Resident) is identified, the attending staff shall also be identified. Names and addresses of current specialty leaders are available via Navy Medicine Online. Detailed instructions for accessing these lists is provided in enclosure (1).

b. Specialty Leader Responsibilities

(1) Assignment of specialty reviewer. The specialty leader, based on review and knowledge of the incident and professional expertise, shall assign a fully trained specialist to serve as the specialty reviewer. This can be any Medical Department Officer with the requisite credentials and competence necessary to analyze the incident and provide a professional specialty opinion on whether the standard of care was met, including providers assigned to operational platforms.

(2) Notification of specialty reviewer. To expedite the process, the specialty leader shall directly notify the specialty reviewer of the assignment in writing using the appointing letter format of enclosure (2) and provide a copy to the:

(a) Reviewer's commanding officer.

(b) Commanding officer convening the investigation, except in cases where the commanding officer convening the investigation is the same as the reviewer's commanding officer.

(3) Receive and review a copy of the completed specialty review from the specialty reviewer. In any instance where standard of care is determined to not have been met, forward a copy of the specialty review to BUMED Risk Management.

(4) If, as part of the review process, BUMED requests a specialty review, the review is returned directly to BUMED risk management.

c. Exceptions to Assigning a Specialty Reviewer. If the specialty leader determines that appointment of a specialty reviewer is unnecessary, based on paragraphs 4c(1) or 4c(2) below, they will provide the commanding officer with written notification of this decision. That correspondence shall become an enclosure in the litigation report or command investigation. The following exceptions do not require assignment of a specialty reviewer:

(1) When the incident is obvious malpractice and would not require specialized expertise on whether the standard of care was met (e.g., surgical removal of the wrong limb).

(2) When the investigating officer is known by the specialty leader to possess the requisite demonstrated skills as a specialty reviewer to evaluate the event and is sufficiently removed from the matter to render an unbiased opinion. In this case, the investigating officer, acting as specialty reviewer, shall provide a credible review with supporting documentation consistent with the format and details required by enclosure (3).

5. Specialty Reviewer Responsibilities

a. The specialty reviewer will act as a consultant and shall advise the investigating officer of relevant information required to conduct a thorough investigation and specialty review. The specialty reviewer is not responsible for compiling information or writing the investigation.

b. When the investigating officer has completed the "Findings of Fact" portion of the investigation, a copy, along with enclosures, shall be sent to the assigned specialty reviewer for

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review. To provide a credible review with supporting documentation, the specialty reviewer shall render a standard of care analysis and determination in the format provided in enclosure (3). The original is forwarded to the investigating officer, with a copy to the specialty leader.

c. Specialty reviewers must be sensitive to investigative time requirements and shall expedite reviews to ensure the investigation is completed in a timely manner. If the information provided by the investigating officer is insufficient to render an opinion, the specialty reviewer shall advise the investigating officer as soon as possible. Otherwise, specialty reviews shall be returned to the investigating officer not later than 30 days after receipt of the investigation. Delays in specialty review completion should be reported to the cognizant specialty leader.

d. If a specialty reviewer uses supporting staff to research literature or assist in any way, the specialty reviewer remains ultimately responsible for the professional specialty review and opinions provided to the investigating officer.

6. Investigating Officer and Commanding Officer's Responsibilities Regarding Opinions. The investigating officer shall summarize all specialty review determinations in the "Opinions" section of the investigation and include any specialty reviews as enclosures to the investigation. If desired, the investigating officer and commanding officer may comment on the opinions and suggestions made in the specialty reviews, but may not approve or disapprove the specialty review. The commanding officer may spell out disagreements with the specialty reviewer supported by the evidence.

7. Confidentiality. Health care investigations, including specialty reviews, may be conducted for a variety of reasons.

a. Most frequently, specialty reviews are conducted as part of a litigation report per reference (a), and are created in anticipation of claims or litigation. These investigations and specialty reviews shall be conducted under the supervision of an attorney and are protected by attorney work product. Specialty reviews are not quality assurance documents under reference (b) and should not contain documents obtained from quality assurance records and files. Guidance may be sought from the Medical Treatment Facility Staff Judge Advocate or the appropriate Navy Medicine Region Staff Judge Advocate.

b. Specialty reviews may also be conducted for quality assurance purposes. If conducted for such purposes, the restrictions of reference (c) apply.

c. Commanding officers should take special care to ensure that the purpose of the health care investigation and specialty review are clearly articulated. The purpose of the investigation determines the type of confidentiality that applies to the document.



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Acting

Distribution is electronic only via the Navy Medicine Web site at:
<http://navymedicine.med.navy.mil/default.cfm?seltab=Directives>

ACCESSING SPECIALTY LEADER LIST

1. Log onto: <https://wwwa.nko.navy.mil/portal/splash/index.jsp>
2. Under "Navy Online" logo is a drop-down box
3. Click on the down arrow and select "Organizations and Communities"
4. In blue column on left select "Communities of Practice"
5. In box entitled "Communities of Practice" select "Navy Medicine"
6. In blue column on left select corps
7. If you select "Medical Corps" a list of specialties appears in blue column on left; do not use that list, instead scroll down to box entitled "Medical Corps Directories" then under "Specialty Leader" select "Active Duty" or "Reserves" and an Excel spread sheet will appear.
8. For all other specialties use the list of specialties that appears in the blue column on the left.

SAMPLE
SPECIALTY LEADER APPOINTING LETTER TO SPECIALTY REVIEWER

5830
Ser/
Date

FOR OFFICIAL USE ONLY - LITIGATION/ATTORNEY WORK PRODUCT

From: [Specialty Leader]
To: [Specialty Reviewer]

Subj: SPECIALTY REVIEW ICO [insert case name/identifiers from subject line of the investigation]

Ref: (a) BUMEDINST 5830.1A
(b) Manual of the Judge Advocate General, Chapter 2

1. You are appointed to provide technical assistance to the investigating officer by conducting a specialty review of the care rendered in the case under investigation. The investigating officer, _____, will provide you with a copy of the factual portion of the investigation and other documents needed to prepare your review. As indicated in reference (a), the purpose of your participation is to assess the care provided and assist Government attorneys in defense of an existing or anticipated medical malpractice claim.
2. Your review shall be conducted in the format provided in enclosure (2) to reference (b) and shall discuss the standard of care at the time of the incident. If you are an investigating officer also serving as a specialty reviewer, to provide a credible review with supporting documentation, the review you provide for the investigation shall also be in the format of enclosure (2) to reference (b). You shall objectively evaluate and state whether or not the standard was met based upon accepted medical practice and literature. Your review should not include opinions concerning whether a claim should be denied or settled.
3. Your review should be completed within 30 days of receipt of the investigation from the investigating officer.

[Specialty Leader]
[Rank, Corps, Service]
Specialty Leader for [specialty]

Copy to:
Reviewer's commanding officer
Commanding officer convening investigation

Enclosure (2)

SAMPLE
SPECIALTY REVIEWER LETTER TO INVESTIGATING OFFICER

5830
Ser/
Date

FOR OFFICIAL USE ONLY - LITIGATION/ATTORNEY WORK PRODUCT

From: [Specialty Reviewer]

To: [Investigating Officer]

Subj: SPECIALTY REVIEW ICO [insert case name/identifiers from subject line of the investigation]

Ref: (a) [Specialty leader name] ltr 5830 Ser _____ of _____
(b) BUMEDINST 5830.1A

Encl: (1) Curriculum Vitae
(2) [Cite articles]
(3) [Cite investigative report]

1. Per references (a) and (b), this specialty review has been prepared to assess the care provided in the matter under investigation and assist Government attorneys in defense of an existing or anticipated medical malpractice claim.
2. Relevant Facts. [Set out the facts as they pertain to the matters under review, identifying providers involved, including their area of practice and employer.]
3. Standard of Care. [Describe, citing appropriate literature, the standard of care at the time of the incident.]
4. Standard of Care Determination. [Discuss how the standard of care was met or breached. If the standard of care was breached, identify and discuss how specific providers or specific systems or equipment deviated from the standard of care.]
5. Injury/Causation. [Identify and discuss the nature, extent, and prognosis of any injury and its relationship to a breach of the standard of care.]
6. Remedial Measures. [If appropriate, make recommendations of actions necessary to prevent a reoccurrence of this event.]
7. Miscellaneous. [Identify and discuss any other relevant issues.]

[SIGNATURE]

Copy to:
Specialty Leader

Enclosure (3)