



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
2300 E STREET NW
WASHINGTON DC 20372-5300

IN REPLY REFER TO
BUMEDINST 6010.28
BUMED-M00HCR
23 May 2011

BUMED INSTRUCTION 6010.28

From: Chief, Bureau of Medicine and Surgery
To: All Medical Treatment Facilities

Subj: HEALTHCARE RESOLUTIONS PROGRAM

Ref: (a) The Joint Commission Hospital Accreditation Standards, current edition, RI 01.02.01
(b) Navy Medicine Strategic Plan, Patient and Family-Centered Care Initiative, 2009
(c) Title 10 U.S.C. 1102 - Confidentiality of Medical Quality Assurance Records

Encl: (1) Guiding Principles and Practices of Command Special Assistants for Healthcare Resolutions
(2) Referral Criteria

1. Purpose

a. To establish Navy Medicine strategic policy for the promotion of organizational transparency and full disclosure following unanticipated or adverse outcomes of care; to assist the enterprise in “doing the right thing” when there are unanticipated outcomes of care, treatment and services; to train and coach providers in disclosure techniques and to resolve complex healthcare issues at the earliest opportunity, outside a legal venue, with equitable resolutions for patients, providers, and the organization.

b. To establish Bureau of Medicine and Surgery (BUMED) subject matter expertise, support services, and resources to assist the Chief, BUMED and Navy Medicine commanders, commanding officers, and officers in charge in meeting goals and objectives as well as to establish policies and guidelines pertaining to disclosure and organizational transparency utilizing services of healthcare resolutions specialists.

2. Scope. This instruction encompasses all Navy Medicine healthcare efforts and programs, regardless of discipline or level, and provides strategic direction. The requirements of this instruction do not supersede existing patient safety, risk management, or quality assurance requirements.

3. Background. In the complex world of medicine, errors are inevitable, even by well-trained, well-intentioned, dedicated professionals. The culture is gradually evolving to meet public demand for full disclosure when unexpected outcomes of care occur. Patients have a right to be free of any mistaken beliefs concerning their health-related conditions. Many medical, dental, nursing, and allied health professional societies as well as The Joint Commission have developed disclosure mandates. While reference (a) was established in July 2001, many studies have

estimated that only a small percentage of adverse medical events are being disclosed to patients and families. Training by healthcare resolutions specialists has been instrumental in this evolution toward transparency within Navy Medicine.

4. Applicability

a. All Navy Medicine medical treatment facilities.

b. All Navy Medicine military and Federal civilian healthcare providers within Navy Medicine commands providing direct patient care, including personal services contractors.

5. Policy

a. It is the policy of Navy Medicine that all licensed independent practitioners receive disclosure training by healthcare resolutions specialists and that full transparency is practiced when there are unanticipated or adverse outcomes of care, treatment, or services both in support of reference (a) as well as in furthering the goals of reference (b), the Navy Medicine Strategic Plan to foster patient and family-centered care. Transparency involves the release and explanation of the medical facts of the case as documented in the medical record. Strict compliance must be maintained with protecting all quality assurance and peer review materials from inappropriate release, as required by reference (c).

b. The Healthcare Resolutions Program is not intended to take the place of legal or claims processes. Mediation and facilitation sessions are not considered formal resolutions of legal claims. Patients and families maintain the integrity of their legal options.

6. Program Functions

a. Promote organizational transparency and integrity with full disclosure, recognition of system vulnerabilities, and a commitment to process improvements.

b. Assist the organization in “doing the right thing” when there are unanticipated or adverse outcomes of care, treatment, and services.

c. Resolve complex healthcare issues at the earliest opportunity, in a neutral, non-legal venue, with equitable resolutions for patients, providers, and the organization.

d. Provide appropriate periodic disclosure training and coaching for medical staff, ensuring compliance with references (a) and (c).

e. Conduct mediation and facilitation sessions that generate issues from all parties, staying involved from disclosure coaching through resolution in accordance with enclosure (1).

7. Responsibilities

a. BUMED Special Assistant for Healthcare Resolutions

(1) Serves as the Navy Medicine Executive Special Assistant for Healthcare Resolutions and assists the Chief, BUMED, with the formation of policies and implementation of this program.

(2) Serves as the Navy Medicine subject matter expert on disclosure training and practice as well as resolution of complex healthcare issues, outside a legal venue, ensuring equitable resolutions for patients, providers, and the organization.

(3) Provides subject matter expertise to Navy Medicine commanders, commanding officers, and officers in charge for the implementation of this instruction. Provides on-site assistance as may be directed or requested; provides educational leadership and enrichment in specified content areas.

(4) Provides assistance with candidate selection for Special Assistant for Healthcare Resolutions positions if desired by region and /or medical treatment facility.

(5) Provides training as well as coaching/mentoring sessions for Special Assistants for Healthcare Resolutions.

(6) Provides or arranges for disclosure training for Navy Medicine providers when there is not an on-site or available regional Special Assistant for Healthcare Resolutions.

b. Navy Medicine Region Commanders

(1) Implement the Healthcare Resolutions Program within their subordinate commands providing direct patient care.

(2) Promote Healthcare Resolutions activities and services including appropriate periodic disclosure training.

(3) Ensure subordinate commands are supported and sufficiently resourced to meet the goals and responsibilities of this instruction.

c. Navy Medicine Commanders, Commanding Officers, and Officers in Charge of Medical Treatment Facilities

(1) Establish a Special Assistant for Healthcare Resolutions position or ensure that services of a Special Assistant for Healthcare Resolutions are available to your medical treatment facility. There are Special Assistants for Healthcare Resolutions within every region that provides coverage for facilities that do not require a full-time individual in this position. This is a full-time civilian billet and not a collateral duty. All Special Assistant for Healthcare Resolutions positions will be based in individual medical facilities.

(2) Establish processes to implement the disclosure requirement portion of this instruction and arrange for provider training through a regional Special Assistant for Healthcare Resolutions or through the BUMED Special Assistant for Healthcare Resolutions. Allocate resources to meet goals and responsibilities.

(3) Promote case resolution and disclosure activities and services in accordance with this instruction.

d. Command/Regional Staff Judge Advocate

(1) Serves in an advisory capacity to the Special Assistant for Healthcare Resolutions, providing guidance and counsel. Special Assistant for Healthcare Resolutions is expected to brief the Staff Judge Advocate on cases that may have legal implications, including potential claims against the government.

(2) Reviews all written correspondence prepared by the Special Assistant for Healthcare Resolutions as necessary.

(3) Does not participate in mediation and facilitation sessions.

e. Command Special Assistant for Healthcare Resolutions

(1) Reports directly to the commander, commanding officer, officer in charge, deputy commander, chief of Staff, and executive officer as a special assistant.

(2) Conducts appropriate periodic disclosure training for providers as well as case execution. Adheres to program standard operating procedures received during specialty training delivered by the BUMED Special Assistant for Healthcare Resolutions.

(3) Advises staff judge advocate if notified that a patient is represented by legal counsel and/or intends to file a claim against the Government.

(4) Refers any inquiries regarding legal issues or service of process to the staff judge advocate, including any correspondence from legal counsel representing patients.

(5) Disengages when claims are filed. If the Special Assistant for Healthcare Resolutions is advised that a patient or family is represented by legal counsel, but no claim has been filed, he or she offers the patient or family an option to continue with the Healthcare Resolutions Program or to proceed exclusively through the legal system with their attorney.

(6) Familiar with and observes guidelines contained in reference (c) and enclosure (1).

(7) Conducts program awareness training to include, among other venues, executive board briefs and command orientation.

f. Navy Medicine Providers

(1) Participate in disclosure training.

(2) Must be familiar with services of the Special Assistant for Healthcare Resolutions and this instruction.

(3) Refer cases to the attention of the Special Assistant for Healthcare Resolutions and participate in mediated sessions in accordance with enclosure (2).

(4) Must be familiar with and observe reference guidelines regarding non-releasable information.

g. Patient Safety, Risk Management, and Quality

(1) Accept case referrals from the Special Assistant for Healthcare Resolutions as directed by providers.

(2) Attend specific sessions arranged by the Special Assistant for Healthcare Resolutions with patients and families who want to offer input to the formal case review process, having been advised that investigative results are not releasable.

(3) Refrain from sharing information protected by reference (c) to the Special Assistant for Healthcare Resolutions.

h. Customer Service, Customer Advocacy, and Patient Relations

(1) Receive guidance from the Special Assistant for Healthcare Resolutions regarding appropriate case referrals in accordance with enclosure (2).

(2) Accept customer service referrals from the Special Assistant for Healthcare Resolutions.

8. Background Sources. The following sources provide background information that support the development, principles, and expansion of the Healthcare Resolutions Program, explain current culture regarding management of adverse medical events, and provide a framework of legal and quality assurance processes that must be respected:

DoD 6025.18-R, DoD Health Information Privacy Regulation

SECNAVINST 5211.5E, Department of the Navy Privacy Program

DoD 6025.13-R, Military Health System Clinical Quality Assurance Program Regulation

BUMEDINST 6010.13, Quality Assurance Program

BUMEDINST 6010.23, Participation in the Military Health System Patient Safety Program

Title 28 U.S.C. 1346, Federal Tort Claims Act

Institute of Medicine, "To Err is Human: Building a Safer Health System," November 1999

Institute for Healthcare Improvement, "Respectful Management of Serious Adverse Events."


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**GUIDING PRINCIPLES AND PRACTICES OF COMMAND SPECIAL ASSISTANTS
FOR HEALTHCARE RESOLUTIONS**

Special Assistant for Healthcare Resolutions incorporates multiple approaches to conflict management and dispute resolution, including but not limited to the following:

1. Neutrality (to the extent permitted by law) – promote a fair process, objectivity, impartiality, and even-handedness, exhibiting behaviors and words that do not favor one view, one person, or one position over another; remain free from conflict of interest.
2. Conciliation – help people deal with their feelings to be better able to deal with problems by listening impartially and helping to put the problem into perspective.
3. Facilitation - hear and informally research complaints, help to open communication between parties, and seek fair and equitable solutions to the situation.
4. Coaching – coach individuals at all levels on organizational behavior, communication strategies, and interpersonal communication; review policies, procedures, and systems that do not serve the organization and its internal and external customers in achieving desired outcomes; assist and counsel parties to improve their communication skills, surface issues, handle emotions, etc.
5. Informal fact-finding – do not conduct formal investigations; review medical record, speak with involved patient and providers regarding the occurrence to gather information to facilitate the resolution process. Do not interfere with any quality assurance or litigation reports and do not seek the results of those proceedings.
6. Shuttle diplomacy – serve as conduit between patients and providers. This approach is often incorporated when communication has been disrupted, when parties feel that all rapport has been destroyed or when patients or families are upset and feel violated by the organization yet still have questions regarding their care.
7. Referral – refer to another department and resource when they may be more appropriate to resolve all or a portion of a case.
8. Empowerment – “help people help themselves;” counsel patients and medical staff to recognize alternatives, to consider goals and objectives while balancing them against the goals and interests of the organization.
9. Mediation – serve as impartial third party who facilitates discussions between patients and providers, helping the parties focus on underlying issues, their needs and interests, rather than on entitlements or rights-based positions. The mediator is responsible for gaining the parties’ trust, clarifying perceptions, serving as an agent of reality, framing issues, and assisting in creating options prior to any complaint being placed in the litigation pipeline.
10. Ombudsman – an individual skilled in dealing with reported complaints, operating in a neutral and confidential role, to help achieve equitable solutions to concerns.

REFERRAL CRITERIA

Early referral is key. Referrals may be received from medical treatment facilities, leadership, staff members, beneficiaries, public Web site, Legal, customer service, written correspondence received by the Command, or any other source other than information protected by Title 10 U.S.C. 1102.

The following serve as a non-exclusive list of common referrals:

- ▶ Disclosure issues – coaching, follow-up, maintain open communication
- ▶ Unanticipated outcomes of care
- ▶ Delayed diagnosis
- ▶ Medical/medication errors
- ▶ Sentinel events/wrong site/wrong patient procedures
- ▶ Elevation of care caused by hospital/hospital acquired infections
- ▶ Expected or unexpected deaths
- ▶ Patient dissatisfaction with treatment outcomes or quality of care
- ▶ Poor patient-provider interaction/communication
- ▶ Appropriate patient disengagement without abandoning patient care
- ▶ Follow up with patients who leave against medical advice
- ▶ Perceived near misses
- ▶ Congressional Inquiries involving quality of patient healthcare issues