PUBLIC ACT 102-0417

VETERANS' SERVICE-RELATED AILMENTS TASK FORCE REPORT

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★ FROM THE CO-CHAIRS

The Veterans' Service-Related Ailments Task Force would like to express a sincere thank you to the State of Illinois for acknowledging the struggles Veterans in Illinois endure in relation to obtaining their Veterans Affairs Disability Benefits. The task force would also like to thank the State of Illinois for its commitment to developing programs to assist these Veterans. It is a great honor to be selected for this task force, and it is an opportunity to work together to recommend programs to address the significant deficit that the State of Illinois is in for Veterans receiving VA benefits in comparison to other states and US Territories.

Illinois has a significant number of Veterans who live and work within the State. According to the VA Geographic Distribution of VA Expenditures (GDX)- FY21, Illinois ranked 10th in the US with a Veteran population of 591,269. Illinois is a leader in in providing State benefits for Veterans and their families. However, over the last decade, Illinois has been in the bottom, or near bottom, for Veterans receiving VA Disability Compensation. The Veterans of Illinois deserve better outcomes in terms of VA Service-Connected Disability claims and ratings. In turn, the State will benefit from increased federal funds that Veterans would receive and spend throughout the State.

As co-chairs we would like to personally thank our fellow task force members who are Veterans and/or represent and support Veterans through various Veteran organizations, State and County Veteran Service Officers, and Illinois House and Senate Representatives. These task force members dedicated their time and effort to collaborate on the challenges that Veterans face in establishing VA Disability Benefits, and the group worked toward solutions that will have the greatest impact for the Veterans of Illinois. The experiences and perspectives of the individual members brought a wealth of knowledge and insight that proved vital in the development of the recommendations provided in this report. It is our belief that with these changes we will be able to reach those that feel they don't deserve any help or don't know how to ask for help. These thoughts and ideas have come from Veterans of different eras who have the ability to work together to be fair and unbiased towards any group of Veterans or their families. We want to help these Veterans and provide more "service over self" as that is what we owe them.

On behalf of the Veterans' Service-Related Ailments Task Force it is our honor to present the enclosed report with recommendations.

Respectfully,

Jilian Summer Padaoan,

Veteran Service Officer (IACVAC) Veteran, United States Navy, 2001-2009

William Sutton,

Veteran Service Officer (IACVAC) Veteran, United States Marine Corps Retired

20 ILCS 2805/38 authorized the creation of the Veterans' Service-Related Ailments Task Force. The mission of the Task Force is to:

a) Review and make recommendations regarding Veterans' service-related ailments that are not recognized by the U.S. Department of Veterans Affairs, including exploring why certain service-related ailments are not recognized and determining what may be done to have them recognized.
b) Assess ways the State of Illinois can improve the rate at which disability compensation claims are approved by the federal government and correct the disparity between the U.S. Department of Veterans Affairs' approval of disability compensation for Illinois Veterans and that which is approved for Veterans in other states.

Both concerns are related, so a brief explanation of the relationship is necessary to understand why the Task Force focused primarily on part 'b' of the mission. In the most technical sense, the U.S. Department of Veterans Affairs–Benefits Administration (hereafter VBA) does not significantly limit what can be considered a service-related ailment. All claims for service-related ailments must include the following elements: a current chronic medical condition, an in-service incident, and a link medically connecting the current chronic medical condition and the in-service incident.

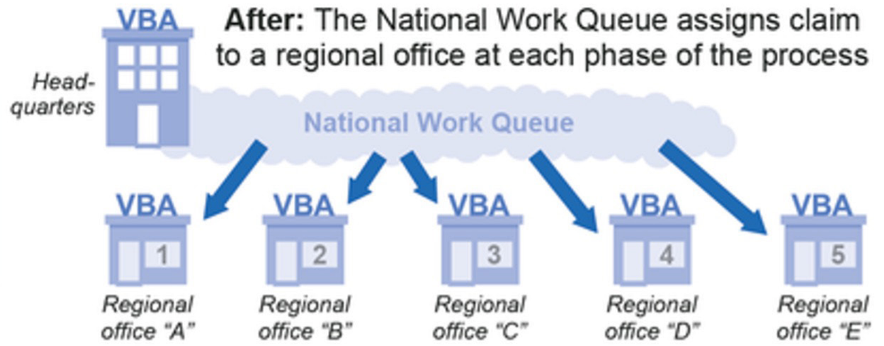
There are many conditions whereafter considerable research and statistical analysis the National Academy of Medical Science presents the VBA with an anomaly that is likely explained as being something related to military service. Service-connection for Amyotrophic Lateral Sclerosis (ALS) is an example of one such disability. The VBA now automatically assumes that a Veteran's ALS is related to military service. Other injuries such as a broken leg can somewhat easily be later linked to traumatic arthritis (a chronic condition) resulting from the break. More complicated cases could include injuries such as respiratory conditions or cancer due to repeated exposures to fuels and solvents.

Under the premise that no chronic injury potentially linked to military service is off the table, the Task Force focused on *b. Assess ways the State of Illinois can improve the rate at which disability compensation claims are approved by the federal government and correct the disparity between the U.S. Department of Veterans Affairs' approval of disability compensation for Illinois Veterans and that which is approved for Veterans in other states.* To do this the Task Force first needed to do an analysis of the disability claims process and decision information.

The task force submitted a FOIA request to the VBA covering the five-year period of the federal Fiscal Years 2017 to 2021. This data revealed during that period, the VA received 22.8 million claims distributed to its VA Regional Offices (VARO) located within the United States and its territories. During this same period the VA decided 5.1 million claims. These claims are worked through the National Work Queue (NWQ) system which was introduced in 2016 to help maximize the VA's workforce by utilizing all 56 of its VAROs simultaneously. This reduced the burden on certain VAROs experiencing understaffing and helped ease backlog. Prior to 2016, certain VAROs were required to process more claims than other VAROs if they had jurisdiction over a geography with a dense Veteran population, often causing a backlog. One of the fundamental principles of the NWQ is to ensure that Veterans are served equally, regardless of where they live.[1]

[1]Subcommittee on Disability Assistance and Memorial Affairs of the Committee on Veterans' Affairs U.S. House of Representatives. (February 2017). Exploring national Work Queue's Impact on Claims Processing. https://www.govinfo.gov/content/pkg/CHRG-115hhrg29368/html/CHRG-115hhrg29368.htm

Source: GAO analysis of Veterans Benefits Administration (VBA) procedures. | GAO-19-15



Data supplied by the Veterans Benefits Administration's annual reports between 2017 and 2021 reveals the average compensation amounts per Veteran have steadily increased to a national average of $18,129 per year in FY21, with the average paid to Illinois Veteran being $18,762. However, relative to the rest of the country, Illinois has continually had one of the smallest proportions of Veterans receiving compensation from the VA. The VA annual reports revealed a national average of 24.9% of Veterans receiving compensation from the VA, with Illinois lagging with 17.3% for the period FY2017 – FY2021.

The task force recommendations focus on four areas:

- return to Illinois
- training and outreach to Veterans and their families already living in Illinois
- training, and outreach to VHA Providers
- training and incentives to VA contracted Compensation & Pension Examiners (doctors of various specialties who assist the VBA with determining the degree of disability and the likelihood that the condition is related to military service)

The task force in its second year of meeting (2023) intends to investigate the ratio of Veteran Service Officers to veterans and do a comparative analysis to other states in the nation and investigate possible solutions to increase that ratio if found to be necessary. We will do this in conjunction with P.A. 102-0758, knowing that assessment will provide valuable insight and while not identical in nature, will provide valuable information to this task force.

Co-Chairs

Jilian Padaoan, *Lake County Veterans Assistance Commission Veteran Service Officer, IACVAC, Veteran USN*
Appointed by the Director of the Illinois Department of Veterans' Affairs

William Sutton, *DeKalb County Veterans Assistance Commission Veteran Service Officer, IACVAC, Veteran USMC Retired*
Appointed by the Chair of the Veterans' Affairs Committee of the House of Representatives

Members

Stephanie Kifowit, *IL State Representative, IL House of Representatives, Veteran USMC*
Appointed by the Speaker of the House

Dan Swanson, *IL State Representative, IL House of Representatives, Veteran USA and ARNG Retired*
Appointed by the House Minority Leader

Craig Wilcox, *IL State Senator, IL State Senate, Veteran USAF Retired*
Appointed by the Senate Minority Leader

Terry Prince, *Illinois Department of Veterans Affairs Director, Veteran USN Retired*
Director of the Illinois Department of Veterans' Affairs

Anthony Vaughn, *Illinois Department of Veterans Affairs Assistant Director, Veteran USMC Retired*
Illinois Department of Veterans' Affairs Director's designee

Colonel John Fulk, *Illinois Army National Guard State Surgeon, ARNG*
Medical professional appointed by the Director of the Illinois Department of Veterans' Affairs

Christopher Spears, *Minority Spokesperson of the House of Representatives Appointee, Veteran USA*
Appointed by the Minority Spokesperson of the Veterans' Affairs Committee of the House of Representatives

Michael Iwanicki, *McHenry County Veterans Assistance Commission Superintendent, IACVAC, Veteran USN*
Appointed by the Minority Spokesperson of the Veterans' Affairs Committee of the Senate

Michelle Ramlow, *IL VFW2 Deputy Chief of Staff, District 10 Jr. Vice Commander, Post 1756 Sr. Vice Commander, Veteran USN Retired*
Appointed by the Director of the Illinois Department of Veterans' Affairs

Kimyada Wellington, *Member of Kappa Epsilon Psi Military Sorority, Inc. VP of Chicago Chapter, Veteran ARNG Retired*
Appointed by the Director of the Illinois Department of Veterans' Affairs

Eric Peterson, *Founder of Project Headspace and Timing, Veteran USA*
Appointed by the Director of the Illinois Department of Veterans' Affairs

Nikita Richards, *Senior Public Relations/Reputation Management, Veteran USN*
Appointed by the Director of the Illinois Department of Veterans' Affairs

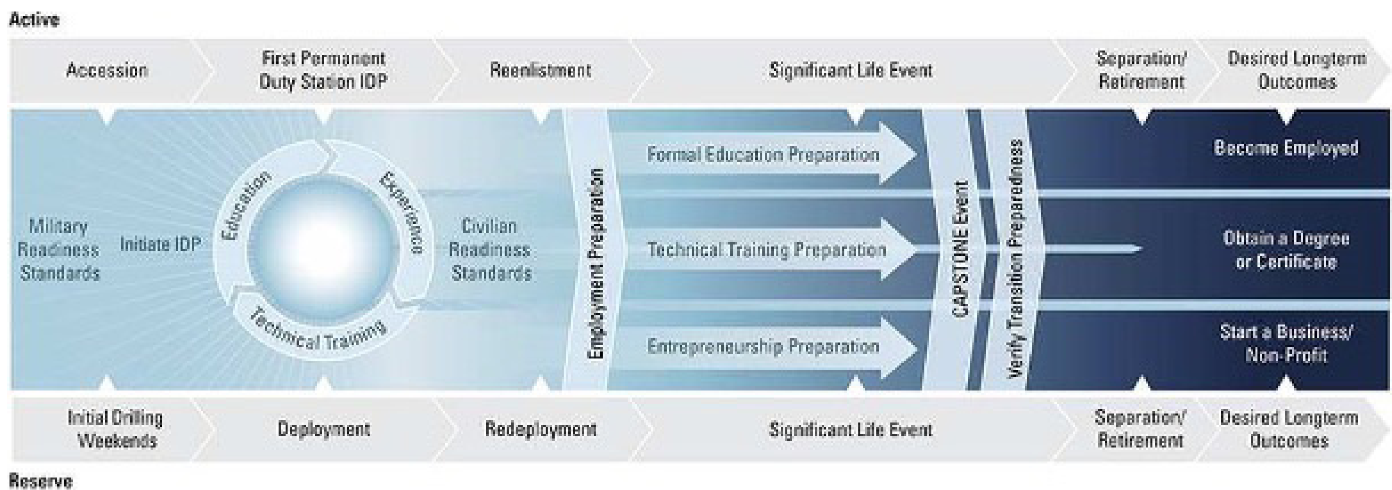
Vacancies:

(1) Appointee from the President of the Senate
(1) Member appointed by the Chair of the Veterans' Affairs Committee of the Senate

Background information:

"Death by PowerPoint" was the description of the two-week transition program administered by the Department of Defense (DoD). Service members can be overseas when administered their transition training, and they do not always receive specific information on benefits provided by the state they are returning to. Service members, excited to see loved ones and begin another chapter of their life, may not always pay attention during these trainings too. Subsequently, the training has the potential to miss having an impact on many returning service members. Therefore, this task force felt it important to address re-entry to Illinois as a critical focus.

Historically, the military has not done well in providing transition services; however, today, the Transition Assistance Program (TAP) is governed by Public Law Title 10 U.S.C 1142, Pre-Separation Counseling; DOD Directive 1332.35, Transition Assistance for Military Personnel; Department of Defense Instruction 1332.36 Pre-Separation Counseling for Military Personnel and E.O. 9397. The DOD transition website states, "The Transition Assistance Program (TAP) provides information, tools, and training to ensure servicemembers and their spouses are prepared for the next step in civilian life, whether pursuing additional education, finding a job in the public or private sector, or starting their own business". This redesigned TAP is the result of an interagency collaboration to offer separating servicemembers and their spouses better, more easily accessible resources and information to make their transitions more successful. Each branch of service has a program to ensure compliance. As with any program, the service member can "check the block" or invest their time in the resources assisting in the healthy transition. The programs are heavily centered on employment transition, supplemented by Veteran's benefits, and financial planning. Section 1142 describes precisely what the transition counselor covers. No emotional or psychological support is noted. The Marines have a block of instruction on resilient transition. Although each branch has resiliency training, most have not married the training with TAP. For the reserve component, upon returning from deployment, each service member completes TAP before the ending of his or her Title 10 orders. DOD needs to mandate resiliency training as part of TAP. In October 2015, the DOD launched the Military Life Cycle transition preparation model. This model launches transition training at the beginning of the service member's tenure versus the last year. The model is in its infancy and has yet to filter down to all elements.



Source: https://www.dodtap.mil/

Findings:

The task force recommends the following be implemented by the State of Illinois to achieve the stated goal of PA 102-0417. These findings are attributed to all service members, to include Veterans, National Guard members, Retirees, Reservists, and Active-Duty service members, and create a Re-Entry to Illinois (or Welcome Back Home) program.

1. The State, in conjunction with existing non-profits and the Illinois National Guard, should coordinate a Re-Entry to Illinois program twice a year. The ideal location would be one in the northern part of the state and one in the central or southern part of the state.

    a. The State of Illinois has a robust network of community colleges, with several already having a student Veteran organization on campus, making these campuses ideal locations and/or partnerships for a re-entry program for returning Illinois service members.

2. IDVA already has a communication tool with incoming discharged service members via their welcome letter. This letter is passive in nature but can be used to formally invite recently discharged members to a Re-Entry to Illinois Program.

3. Reimbursement must be provided for travel and lodging of recently discharged service members and family to allow for affordability.

4. The goal is to connect recently discharged service members with an accredited Veteran Service Officer (VSO).

5. Programing of benefits would be beneficial in breakout sessions and presentations.

Conclusion:

To achieve the goal of PA 102-0417, there needs to be a program to connect discharged service members with the benefits they have earned in a timely fashion. Having a program, like Re-entry to Illinois, will provide a connection with an accredited Veteran Service Officer, ideally within 6 months of transition. This will allow for claims to be submitted and processed in an efficient and timely manner, and it will also benefit the transitioning service member to be aware of the benefits and programs available to them for support during their transition time.

Background information:

Among the key concerns addressed by the task force was the lack of education and knowledge of both federal and state benefits available to Illinois Veterans and their families. We identified a need for public education to inform Illinoisans about VA Service-Related Disability Compensation and where to find help with the VA Claims process. Members of this task force consisted of accredited County and State Veterans service officers, Veterans, and members representing Veteran organizations whom all shared experiences of Veteran and family clients who had very unrealistic expectations of what the VA will provide, to those that had no idea that the VA could do anything, or how to navigate the VA claim processes. Added to this are volumes of misleading information about VA Claims. In order to combat VA claim ignorance and misinformation, it will require the leadership and support of a credible and recognizable entity such as the State of Illinois.

The Task Force agreed on five approaches the State of Illinois could take to effectively provide information and assistance to the Veterans' community. These recommendations consist of: Illinois sponsored advertising and education, statewide surveys, in-person Veteran specific events, support and expand Illinois Joining Forces' (IJF) mission and explore a Veterans Community Collaborator Program for implementation.

Findings:

1. State sponsored advertising and education; there is still a place for traditional advertising in today's market using radio, tv, and billboards. These would be useful for brief, targeted advertisements to promote the recommended State sponsored events and web-based platforms where reliable help and information are available for the Veteran community. These advertisements should promote and direct Veterans and their families to free Veteran Service Organizations such as Illinois Department of Veterans' Affairs, Veterans Assistance Commissions, Disabled American Veterans (DAV), Veterans of Foreign Wars (VFW), and American Legion. Targeted ads to Illinois National Guardsmen and Reservists are also recommended considering we learned that many Guardsmen and Reservists are unaware they may qualify for federal VA benefits. Ads would also be modified and varied based on the demographic and geographic needs of the respective communities. The VA GDX data indicates that rural Illinois counties are among those in the State that are lowest in Veterans receiving VA Compensation and is an area in need of more assistance to bridge these gaps. A media relations campaign including press announcements would also be instrumental in communicating programs through the news media. Public Service Announcements could also communicate this information throughout the state. Today's competitive electronic advertising market illustrates effective targeted opportunities to get the word out. Targeted ads using websites and social media such as YouTube, Twitter, Snapchat, and Facebook could be used to point a targeted audience to a helpful website, YouTube tutorial, local Veterans' events, etc. Topics can be added on a regular basis to keep subscribers engaged and informed of the ever-evolving VA benefits world. Examples of topics could include military family readiness, family support programs, homelessness outreach, military support organizations, etc. Such sites can include a chat function to reach out to a State or County Veteran Service Officer.

2. Veterans and families could be directed to a statewide survey regarding experiences (or lack thereof) obtaining benefits from the VA. Such a survey may even point to other difficulties or patterns not previously recognized through the current GDX and VA data. This task force recommends the development of a survey to assess areas of need to best support, engage, educate, and assist Illinois Veterans. It would include but would not be limited to what benefits/disabilities have been applied for and denied, awareness level of Service-Connected or Non-Service-Connected benefits, manner of previously filed claims (Veteran Service Officer/self-filing) and the outcomes.

3. Illinois takes an active leading or supporting role in Veteran centric in-person events throughout the State. State and County Veteran Service Officers can be made available at such events to speak personally with Veterans and family members regarding their specific needs, filing claims, and advise on documentation/evidence needed to support VA claims, all of which would improve VA approval rates. These events would be a collaboration with other Veteran Organizations and companies to provide needed services and resources. This task force recommends these State sponsored "Stand-Down" events are held quarterly throughout each region of the State in order to meet maximum outreach, especially in the areas of the State currently lacking in local resources and representation for Veterans.

   Such events don't necessarily have to be in a physical location. To further address limitations of location and travel, in coordination with the State and County Veteran Service Officers from the IDVA & VACs, accredited service organizations/ representatives, virtual events could be arranged where Veterans or families could attend via Zoom or other virtual conferencing software. This would be especially beneficial to those regions that don't have a local Veteran Service Officer. Representatives could provide guidance to the Veteran or family member who wishes to file their own claim, or if they wish, obtaining the signed authorization to represent the Veterans claim, and provide the same Veteran Organization resources as available at the in-person events.

4. Continue to support and expand Illinois Joining Forces in their mission to bring together public, private, and government stakeholders to collaboratively support service members, veterans, and their families.

5. Explore a Veterans Community Collaborator Program for implementation to reach marginalized populations. By providing organizations who serve the low-income, homeless, and otherwise marginalized populations the resources and basic information on what benefits are available and how to get those Veterans connected with the appropriate resources, we can reach the Veterans most at-risk, and in-need of the valuable healthcare and compensation provided through the VA through service-connected benefits.

Conclusion:

The recommendations of this task force is to market and advertise to Veterans, survey Veterans, provide State sponsored stand-down events, support and enhance the IJF mission, and explore a Veterans Community Collaboration Program. It will address the lack of understanding, awareness, and education for Veterans regarding VA Service-Connected and Non-Service-Connected benefits and improve Illinois' standings in Veterans benefits received to improve both Veterans' quality of life and federal monies coming into the State of Illinois.

Background information:

Another area of concern from the members of this task force are the Veterans Health Administration providers. Often during the claim development process, to develop evidence needed for initial claims or appeals, Veteran Service Officers will request Veterans to get a Disability Benefits Questionnaire (DBQ) or medical opinion (nexus letter) completed from their treating provider. The VA has issued VHA Directive 1134(2) to require VHA providers to assist their patients with VA and Non-VA medical forms and medical statements in respect to their condition(s) and functionality, when requested (Appendix A). **The State and County Veteran Service Officers, Veterans, and Veteran representatives on this task force have discovered that many VHA providers are reluctant and, many times, are unwilling to comply with this directive.** The providers express concerns of conflict of interest or having verbal instructions from superiors not to complete such requests. The providers often respond and tell Veterans they must do Compensation and Pension (C&P) exams through the claim process. However, the issue is that in some situations, especially during appeals or Supplemental Claims, the Veteran has already had a denial due to either a negative medical opinion, no formal diagnosis, or a poor C&P exam as discussed in the earlier section. The Veteran must then have "new and relevant" evidence to support their Supplemental Claim in order to even get the claim reopened for the VA to consider.

One benefit of having supporting medical documentation from a Veteran's treating provider is that the provider generally has a better understanding and knowledge of their medical history, current medical conditions, and the functional impact of these conditions on the Veteran's life. In comparison, C&P examiners generally have only one interaction which is usually less than one hour, sometimes 15 minutes or less. The treating provider's knowledge and understanding of the medical history and conditions would provide a more appropriate assessment of these claimed conditions. The treating providers are just as able to review medical research and discuss the military history with the Veteran to form nexus opinions for either direct, secondary, or aggravated service-connection.

Findings:

1. Illinois should assist in developing and support a Memorandum of Understanding (MOU) between the State and County Veteran Service Officers and the local Veteran Health Administration Facilities in Illinois. The goal of the MOU will be to allow State and County Veteran Service Officers to hold trainings at the VHA facilities to educate providers on the impact and importance of their medical assessments and opinions to assist Veterans. The Veteran Service Officer would reiterate the VHA Directive regarding the providers completion of DBQ's and nexus opinions and address any concerns or questions about doing so. The Veteran Service Officer would express the importance and explain why the requests for their assessment and opinions are needed and how to complete the DBQ's and nexus opinions appropriately. Quarterly visits could be coordinated with local VA facilities and their local State or County Veteran Service Officers.

Conclusion:

Improving the support Veterans VHA treating providers receive to gather appropriate medical evidence in support of claims, will likely increase the chances of improving overall approval rates. Service-connected percentages awarded would provide a more accurate reflection of a Veteran's disability and connection to military service. Often Veterans do not have significant means to get private opinions on their own and the support and assistance from VA providers is paramount in the efforts to improve Service-Connected Disability Compensation rates for Illinois Veterans.

★ TRAINING AND INCENTIVES FOR CONTRACTED COMPENSATION & PENSION (C&P) EXAMINERS

Background information:

The next key concern this task force identified posing a negative impact on the number of Illinois Veterans receiving VA Compensation and Pension are the privatized Veterans Affairs Contract Compensation & Pension (C&P) Examiners. The Veterans Benefits Administration Office of Audits and Evaluations conducted an internal investigation regarding the accuracy of these contracted C&P exams (Appendix B). In the summary of the report the OIG found deficiencies in the program including the management and oversight of the program, and the accountability of the contract vendors for accuracy and correction of errors.

In Illinois, the three contracted vendors are QTC, LHI and Opti-Health (formerly VES). These private examiners provide C&P exams at the request of the VBA out of their private practices, or an examining facility owned by the contracted vendor. These exam locations are often in limited locations across the State, and Veterans often must travel significant distances and time. The examiners are State Licensed Physicians and Practitioners who are required to take minimal additional training by the VBA to perform such exams and are not always specialists within the scope of the exam they are performing. For example, a Family Nurse Practitioner could be contracted to conduct an examination regarding various cancers in a toxic exposure claim. Further, once these examiners complete the VA required training, there is no specific guidance from the VA for any additional training or re-certifications. Based on the personal and professional experience of the members of this task force, countless Veterans have had negative experiences with contracted examiners. The feedback received includes feelings of lack of understanding, care, and concern on the part of the examiners, long distances needed to travel to the exams, lack of understanding of military duties and responsibilities, improper exams (i.e., not taking appropriate range of motion measurements). **These C&P exams result in negative medical opinions and can reduce the number of service-connected disability rating outcomes based on incorrect foundations and improper physical and mental health examinations.**

To address the concerns of the members of the task force, and in order to assist the Veterans of Illinois in obtaining proper VA Service-Connected disability benefits, we are recommending the State of Illinois engage with the State Licensed Medical Providers in a way that will result in providers being more willing to provide appropriate, accurate, and thorough examinations.

The task force recommends the State take three actions:

1. Create programs to recruit more private contracted examiners.
2. Create incentive programs for current examiners to attend additional Continuing Education Units (CEUs) beyond VA minimum requirements.
3. Recommend/require examiners to develop rapport and understanding with examinees through additional visits or time requirements.

Findings:

1. Address the limited number of contracted C&P examiners which in turn causes Veterans to have to travel significant distances to these examinations. Oftentimes the Veterans have limited means of travel due to medical conditions which can limit driving ability and/or income (means to travel). When Veterans are discouraged by the time/distance required to travel to these examinations, or do not have the means or capability of doing so, they often miss or cancel these exams which results in a denial of their claim by the VA. Creating an incentive program may encourage more State Licensed Practitioners to become contracted examiners could mean more Veterans would have better access to contracted C&P exams and better overall VA claim outcomes. Currently, the primary incentive is that examiners are compensated through their current private medical practice in addition to the monetary compensation

from the VA and the contract vendor who employs them. An example of an incentive this task force recommends is:

- Recognition from the State of the practitioner as a Veteran VA Claim Examiner. This title would include an insignia which the examiner could post on their office door, website, signature line and resume/CV. The recognition could also be multi-leveled (bronze, silver, gold, platinum) based on Veteran feedback, ratings, and claim outcomes.

2. To address the quality of the contracted C&P examinations, the task force recommends creation of a State incentive program for contract examiners to complete additional CEU's above and beyond those of the VA requirements. The incentives to improve the quality of the contracted C&P examiners in the State of Illinois can be combined with the incentive program to improve the quantity of the contracted C&P examiners in Illinois. These CEU's could also be cross accredited with the current licensing requirements to minimize the expense and time requirements of the providers. Examples of the additional trainings recommended by this task force are:
    - Military Sensitivity Training
    - Military Cultural Competency
    - Secondary medical conditions
        - Contralateral orthopedic conditions
        - Sleep Apnea secondary to PTSD and mental health disorders
        - Gastroesophageal Reflux Disease secondary to PTSD and mental health disorders
    - Environmental Exposure Conditions (presumptive and non-presumptive)
        - Assessing peer reviewed research to form medical opinions for non-presumptive conditions
        - Understanding when medical opinions are not required (presumptive conditions when exposure has been confirmed)
        - Burn Pit / Southwest Asia exposure and undiagnosed or medically unexplained conditions
    - Education on barriers to care and resulting in the lack of continuity of care medical evidence

An example of a current program that includes cross-accredited CEUs/CTEs sponsored by the State is the Governor's Challenge.

3. Encouraging examiners to develop rapport and trust with Veteran claimants would improve examiners' understanding of Veterans claims, improving the quality of exams and opinions. The members of this task force recommend that examiners be required to increase the time spent with the examinee. Current requirements of the VA are that examiners generally are assigned 60-90 minutes per exam, depending on the type of exam. In many cases, Veterans report their actual exam is 10 minutes. A rushed interview and examination often result in improper exams with poor opinions and inappropriately rated or denied claims. By requiring the examiner to spend more time with the claimant, they will be allotted more time to form an appropriate opinion and conduct more thorough exams. This could include requiring additional visits or completing additional sections in their exam report prior to rendering an opinion.

★ TRAINING AND INCENTIVES FOR CONTRACTED COMPENSATION & PENSION (C&P) EXAMINERS

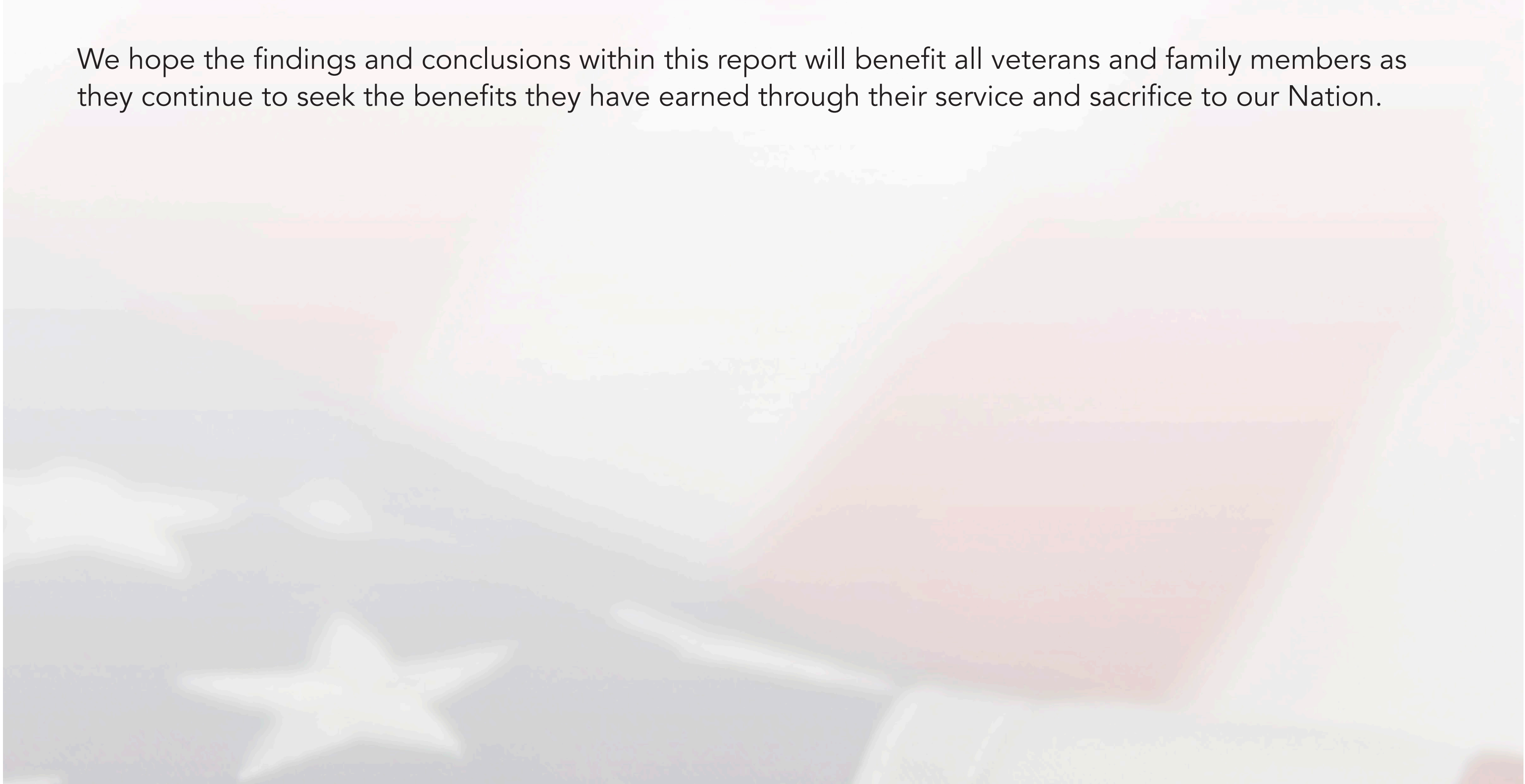
Conclusion:

When a Veteran experiences a poor, ineffective or improper exam, and is not working with an accredited Veteran Service Officer, the veteran may not know what options are available for reporting exam concerns. This task force recommends increasing awareness of reporting processes through Veteran engagement and advertisements. Veterans need to know when they have an exam which is subpar and negatively affects their claim, they can contact a Veteran Service Officer or report the examiner to the contract vendor and the VBA. The current contracts between the VBA and contract vendors includes bonuses from VBA to the examiners for completed exams based on reports provided. Without reporting negative exams, the VBA has no recourse and the examiners who are conducting such poor exams continue to do so, which continues to keep the Veterans of Illinois from receiving the proper service-connected benefits. It is the recommendation of this task force that the State assist in addressing the quantity and quality of VA Contracted C&P exams through incentive programs to recruit more private contracted examiners, incentivize the contract examiners to participate in additional training, require examiners to utilize more time to understand the Veteran and their claim, and to increase awareness of reporting procedures for improper exams, all with the main goal of improving the overall number of Veterans in Illinois receiving federal VA compensation and the amounts received.

★ THANK YOU

The members of this task force would like to express our deepest appreciation to the brave men and women who served our country and to the family members who have supported them throughout their service and their transition after service.

We hope the findings and conclusions within this report will benefit all veterans and family members as they continue to seek the benefits they have earned through their service and sacrifice to our Nation.



Department of Veterans Affairs
Veterans Health Administration
Washington, DC 20420

AMENDED
May 11, 2020

VHA DIRECTIVE 1134(2)
Transmittal Sheet
November 28, 2016

PROVISION OF MEDICAL STATEMENTS AND COMPLETION OF FORMS BY VA HEALTH CARE PROVIDERS

1. REASON FOR ISSUE: This Veterans Health Administration (VHA) directive establishes policy requiring VHA health care providers, when requested and consistent with other VHA policies, to assist patients in completing Department of Veterans Affairs (VA) and non-VA medical forms and to provide patients with medical statements with respect to their medical condition(s) and functionality.

2. SUMMARY OF MAJOR CHANGES:

a. This directive contains an amendment in paragraph 5.d.(1) to remove the mandate for local policy creation, dated May 11, 2020. Amendment dated February 22, 2019 removes the mandate to develop a Medical Statements and Forms Advisory Board. The responsible program office is also updated to VHA Office of Clinical Operations, Office of Primary Care (10NC3) from the Office of Patient Care Services, Primary Care Services (10P4F). The Responsibilities have been updated to replace the Office of Patient Care Services with the VHA Office of Clinical Operations.

b. This directive:

(1) Provides updated guidance and resources for providers to assist with the completion of medical statements and forms,

(2) Provides examples of the various types of medical statements and forms providers may be asked to complete,

(3) Requires each medical facility to identify a local Medical Statements and Forms point of contact to serve as a resource and assist local facility level staff and patients with questions or issues related to the completion of VA and non-VA forms or provision of medical statements, and

(4) Includes guidance on the completion of disability benefits questionnaires.

3. RELATED ISSUES: VHA Directive 1605.01, Privacy and Release of Information, dated August 31, 2016 and VHA Handbook 1907.06, Management of Release of Information, dated January 18, 2013.

4. RESPONSIBLE OFFICE: The VHA Office of Clinical Operations, Office of Primary Care (10NC3) is responsible for the contents of this directive. Questions may be referred to 202-461-6259 or VHA10NCAction@va.gov.

5. RESCISSION: VHA Directive 2008-071, dated October 29, 2008 and VHA Directive 2006-010, dated February 17, 2006, are rescinded.

6. RECERTIFICATION: This VHA directive is due to be recertified on or before the last working day of November 2021. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

David J. Shulkin, M.D.
Under Secretary for Health

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 November 29, 2016.

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PROVISION OF MEDICAL STATEMENTS AND COMPLETION OF FORMS BY VA HEALTH CARE PROVIDERS

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PROVISION OF MEDICAL STATEMENTS AND COMPLETION OF FORMS BY VA HEALTH CARE PROVIDERS

1. PURPOSE

This Veterans Health Administration (VHA) directive establishes policy requiring VHA health care providers, when requested and consistent with other VHA policies, to assist patients in completing Department of Veterans Affairs (VA) and non-VA medical forms and to provide patients with medical statements with respect to their medical condition(s) and functionality. **AUTHORITY:** 38 CFR 17.38(a)(1)(xv).

2. BACKGROUND

VHA strives to be the provider of choice for all enrolled Veterans and its strategic goal is to deliver personalized, proactive, patient-driven care. Timely completion of forms on behalf of Veterans is an important way for VA health care providers to understand and advocate for Veterans' concerns. Additionally, completion of medical forms by health care providers based on an examination or knowledge of the Veteran's conditions, is included under Title 38 Code of Federal Regulations (CFR) 17.38(a)(1)(xv) as part of the medical benefits package (with the exception of the completion of examination forms if a third party would customarily pay health care practitioners for the examination, but will not pay VA). ***NOTE:*** *At present, as a matter of policy, there are no known forms that would fall under this exception.*

3. DEFINITIONS

a. **Assessment of Function (or Functional Assessment).** An assessment of function provides data on how an individual relates and adjusts to their environment when performing a specific task. Assessments of function generally will include measures of motion, strength, pain, endurance, flare-ups, safety, and the ability to perform and repeat meaningful tasks (e.g., assessment of daily living, reviews of medical record, etc.). Typically, VA providers can conduct assessments of function within the clinical environment and they can be enhanced by physical therapy, kinesiotherapy, or occupational therapy consultation. ***NOTE:*** *For example, a form which asks a provider to estimate how long a patient can stand is considered an assessment of function and therefore should be answered to the best of a provider's ability and clinical expertise based on the evaluation completed, even though the specific activity may not have been directly observed.*

b. **Disability Benefits Questionnaire.** A Disability Benefits Questionnaire (DBQ) is a standardized VA documentation tool used to provide pertinent medical information for Veterans in support of the disability compensation process.

c. **Functional Capacity Evaluation.** A functional capacity evaluation (FCE) evaluates an individual's capacity to perform work activities related to his or her participation in employment and compares the individual's health status and functional status to the demands of the job and the work environment. Typically, a FCE is conducted for the purposes of determining feasibility for employment in a specific job. A

well-designed FCE may take hours to perform and consists of a battery of standardized assessments requiring direct observation that offers results in performance-based measures. FCEs should only be performed by qualified rehabilitation professionals that have appropriate training and specialized equipment to include validity and effort measures in the evaluation. Due to the lack of specialized equipment available at most VA medical facilities required to perform FCEs, these evaluations are not routinely conducted by VA providers. ***NOTE:*** *A FCE is not a type of evaluation that is done for the purposes of VA disability benefits or compensation claims.*

d. **Medical Opinion.** A medical opinion is a provider's statement of findings and views, which may be based on review of the Veteran's medical records or personal examination of the Veteran, or both. Medical opinions are often concerned with establishing causality between a Veteran's claimed condition and events in military service or to a previously determined service-connected disability.

e. **Personal Representative.** A personal representative is a person who, under applicable law, has authority to act on behalf of the individual. This may include power of attorney, legal guardianship of an individual, the executor of the estate of a deceased individual, or someone under Federal, state, local or tribal law with such authority (e.g., parent of a minor) (see VHA Handbook 1605.1 on the VHA Publications Web site).

f. **Provider.** Physicians, advanced practice registered nurses, physician assistants, and other health care practitioners who provide primary or specialty care services to patients in accordance with licensure, scope of practice, or functional statement.

4. POLICY

Except when specifically prohibited, it is VHA policy that providers, when requested, must assist patients in completion of VA and non-VA medical forms and provide medical statements with respect to the patient's medical condition and functionality.

5. RESPONSIBILIITES

a. **Under Secretary of Health.**

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

b. **Assistant Deputy Under Secretary for Health for Clinical Operations.** The Assistant Deputy Under Secretary for Health for Clinical Operations, or designee, is responsible for:

(1) Providing national advice, direction, on medical statements and medical forms completion; and

(2) Serving as a resource to Veterans Integrated Service Networks (VISNs), VA medical facilities, Veterans, and others to address issues, concerns, and questions related to this directive.

c. **Veterans Integrated Service Network Director.** Each VISN Director is responsible for ensuring implementation and compliance with this directive at all VA medical facilities in the VISN.

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

(1) Establishing processes and procedures addressing the following:

(a) Completion of VA Medical Forms by VA Medical Facility Health Care Providers. VA health care providers are responsible for completing VA medical forms, in either electronic or paper formats, to support the delivery of patient care. A patient or their personal representative (see definition for personal representative) may request that VA health care providers complete the medical forms on the patient's behalf. Examples of VA medical forms completed upon patient or beneficiary request include, but are not limited to:

1. Application for clothing allowance form,

2. Aid and Attendance (A&A) pension forms,

3. Housebound pension forms,

4. Survivors pension forms,

5. Vocational rehabilitation forms,

6. Disability Benefits Questionnaires (DBQ), and

7. Veterans Benefits Administration (VBA) life insurance forms. ***NOTE:*** *For more information on VBA life insurance programs and forms, please visit the VBA website at http://www.benefits.va.gov/insurance/index.asp.*

(b) Provision of Medical Statements to Support VA Benefits Claims. When honoring requests for medical statements by Veterans for VA claims adjudication, care must be taken to avoid conflict of interest or ambiguity.

1. Service connection and disability ratings for VA benefits are purely legal determinations belonging exclusively to the Veterans Benefits Administration (VBA). VHA providers often do not have access to military medical records, and may not be familiar with all the health issues specific to military service, such as environmental exposure. Additionally, the issues of service connection and disability ratings are governed by statutory and regulatory provisions beyond the scope of VHA examination and/or primary care. Consequently, they are often not well suited to assess causality of

a current condition in a manner helpful to inform the VBA adjudication process. VHA providers who wish to provide medical opinions that state causality must include clear and specific rationale citing evidence to support the conclusion reached, and should employ standard language appropriate for medical opinions (such as "at least as likely as not", etc.)

2. VHA providers, if requested by the Veteran, may place a descriptive statement in the Veteran's medical record regarding the current status of the Veteran's existing medical condition, disease, or injury, including prognosis and degree of function, unless the provider is uncomfortable doing so or if it would be a conflict of interest. ***NOTE:*** *VHA provides compensation and pension (C&P) disability examinations and reports as requested by VBA in connection with disability benefits claims.*

(c) Completion of DBQs to Support VA Benefits Claims. A "no wrong door" philosophy must be adopted to accommodate Veterans bringing a VA DBQ form to a VA medical facility for completion.

1. Veterans may ask their primary care or specialty care provider to complete a DBQ for conditions which are already diagnosed and documented and for which the provider is treating the Veteran. DBQs can be completed by the treating provider during a routine office visit when there is sufficient time and the medical information is available. DBQs can also be completed outside of an office visit, or an appointment can be scheduled for completion. (See VHA Directive 2013-002, Documentation of Medical Evidence for Disability Evaluation Purposes, or subsequent policy issue, on the VHA Publications Web site).

2. If a VHA treating provider has questions regarding DBQs including which DBQs they can or should complete, they may seek further guidance from VBA. Additional guidance and information on completing DBQs can be found on VHA's Office of Disability and Medical Assessment (DMA) website. Guidance specifically for primary care providers is located in DMA Fact Sheet 12-002, "DBQs and Primary Care Providers". For a complete list of DBQs, see VA's DBQ Switchboard Intranet page (***NOTE:*** *These are internal VA Web sites that are not available to the public)* or at VA's external, publicly accessible VA DBQ Switchboard Internet page.

3. For requests for completion of mental health DBQs, it is recommended that the Veteran's treating provider not complete the DBQ to maintain the integrity of the patient-provider relationship.

NOTE: *Veterans requesting assistance with submitting a VA disability benefits claim should be referred to the VBA Internet website at http://www.benefits.va.gov/compensation or the VBA toll free number at 1 (800) 827-1000 for additional assistance.*

(d) Completion of Non-VA Medical Forms. Patients may ask VA health care providers, including primary care and specialty providers, to complete non-VA forms that require a medical professional's assistance or medical opinion. ***NOTE:*** *Providers*

are required to complete the clinically pertinent content of non-VA forms to the best of their ability consistent with their clinical expertise.

NOTE: *For questions pertaining to a form(s) not specifically listed as example(s) below, contact your local Medical Statements & Forms (MS&F) POC for further assistance.*

1. Examples of non-VA forms include, but are not limited to:

a. Family Medical Leave Act forms;

b. Life insurance application forms;

c. Non-VA disability retirement forms;

d. Return to work/work status forms,

e. Medical clearance forms (e.g., for activities, oral surgery/dental work, school/college, therapeutic work programs, etc.);

f. State and federal workers' compensation forms. ***NOTE:*** *Requirements for completing workers' compensation forms may vary from state to state. Questions regarding completion of these forms should be referred to the facility Medical Statements and Forms (MS&F) point of contact (POC)*;

g. Permits (e.g. state driver's license, handicap parking forms, etc.);

h. Medical necessity or accommodation forms (e.g., for equipment or supplies, transit, utilities, etc.);

i. Capacity evaluation forms (e.g., functional, mental health, etc.);

j. Social Security Administration (SSA) examination forms;

k. Death certificates (see VHA Handbook 1601B.04, "Decedent Affairs" on the VHA Publications Web site. For detailed information on the completion of death certificates, see VHA Chief Business Office Procedure Guide 1601.B, Chapter 4, Death Certificates. ***NOTE:*** *This is an internal VA Web site that is not available to the public*),

l. Department of Defense (DoD)/military forms (e.g. Form DD 2807-1, "Report of Medical History" or similar military forms that request a review of a patient's medical history or a provider's treatment of a Veteran). ***NOTE:*** *VA providers should* ***not*** *complete DA Form 7574-1, "Military Physicians Statement of Soldier's Incapacitation/Fitness for Duty" or similar forms which require specific competencies related to military service. Such forms should be completed by a military physician or those with specialized knowledge about active military duty*; and

m. Attorneys' forms regarding patient medical status or functional assessment (e.g., information needed by attorneys to assist Veterans in completing social security or

disability claims). ***NOTE:*** *Completion of attorneys' forms or provision of statements unrelated to the patient's medical status or for non-medical reasons should be evaluated on a case-by-case basis by the provider receiving the form. Examples of such forms or statements include the provision of VA expert opinions, testimony, or release of records strictly requested for the purposes of litigation. VA providers should seek assistance from the local facility point of contact (POC) for consultation with their local Regional Counsel.*

2. The provider may complete non-VA forms:

a. During the scheduled appointment;

b. After the scheduled appointment and the provider returns the completed form to the patient through release of information; or

c. Between scheduled visits, the patient may submit the form to release of information for completion. The provider may complete the form with or without a face-to-face visit, as appropriate.

3. When completion of the form extends beyond the scope of the provider, the provider should assist by consulting with the appropriate specialty care services, (e.g., physical therapy, occupational therapy, blind rehabilitation, kinesiotherapy, mental health, neurology, orthopedics, audiology, cardiology, physiatry, etc.) or route the form to the appropriate provider using local facility release of information processes and procedures.

4. The facility must ensure there are alternatives in place to assist Veterans with completion of forms if the services are not available locally within VHA. Examples of such circumstances include when completion of a form:

a. Extends beyond the capability of the facility, such as the need for a certified provider to complete a medical examination or evaluation (e.g., Federal Aviation Administration (FAA) exam, Department of Transportation (DOT) exam, DOT Substance Abuse Professional evaluation, etc.)

b. Requires specialized clinical expertise or equipment to perform evaluations or examinations (e.g., functional capacity evaluations, etc.)

c. May compromise a provider-patient relationship, such as a request for a concealed weapons or firearms permit.

5. Alternative options include, but are not limited to:

a. Develop the service at the facility-level (i.e., designate provider(s) to receive required training or certification, at the facility expense);

b. Arrange for the service at another VA medical facility convenient to the Veteran, in accordance with VA medical facility processes and procedures;

c. Contractual agreement with federal facilities or similar arrangements with non-VA provider(s); or

d. Other arrangement with non-VA medical care services. ***NOTE:*** *For instance, FAA and DOT exams are medical evaluations and therefore may be covered under non-VA care medical services. However, to be reimbursed, the non-VA provider performing the examination must follow appropriate non-VA medical care policies and procedures and standard healthcare billing and coding requirements. For additional information, refer to* VHA Directive 1601, Non-VA Medical Care Program on the VHA Publications Web site) *or visit the* National Non-VA Care Program Office Intranet page. *This is an internal VA Web site that is not available to the public.*

(e) Provision of Medical Statements to Non-VA Entities. Veterans may request a descriptive statement be put into their VA electronic health record regarding the current status of an existing medical condition, disease, or injury that includes a statement of diagnosis, prognosis, and assessment of function for purposes other than VA disability claims, such as for submission to non-VA entities.

(f) Release of Information (ROI) Procedures. VHA privacy and release of information policies and procedures must be applied prior to releasing any medical statements or medical forms completed on behalf of the Veteran. A written request from the patient or third party authorization is required in accordance with VHA Handbook 1605.1, Privacy and Release of Information and VHA Handbook 1907.06, Management and Release of Information, using VA Forms 10-5345a or 10-5345. A copy of the medical statement (unless entered directly into the Veterans' health record as a progress note) or the completed paper medical form, along with the requisite written request or authorization, must be scanned into Veterans Health Information Systems and Technology Architecture (VistA) Imaging.

(2) Ensuring that there is a process in place for notifying the requestor if a medical statement or form cannot be completed within the 20 work day timeframe, in accordance with VHA Handbook 1907.06, Management and Release of Information.

(3) Ensuring that there is a process in place for reconsideration when a provider refuses to issue a medical statement or complete a VA or non-VA form on behalf of a Veteran or if a Veteran objects to the content of a completed form.

(4) Appointing a Facility Medical Statements and Forms Point of Contact. Every VA medical facility or large Community-Based Outpatient Clinic (CBOC) (greater than 10,000 enrolled Veterans) must have at least one designated Medical Statements and Forms Point of Contact (MS&F POC), or designee(s), whose responsibilities are described in paragraph 4.f. The MS&F POC, or designee(s), must be knowledgeable in the following areas:

(a) Various types of VA and non-VA medical forms and medical statements and possible issues related to their completion.

(b) Understanding of and familiarity with this directive and related privacy and release of information policies and processes (see VHA Handbooks 1605.1 and 1907.06 on the VHA Publications Web site).

(c) The services available at the local facility (e.g., Health Information Management Services, Privacy office, Risk Manager, Release of Information office, local regional counsel office, clinical subject matter expert, etc.) to assist providers in completing non-VA forms.

(d) Existing VA regulations regarding acceptable uses of non-VA care services or ability to communicate with the appropriate facility subject matter expert(s).

d. **Facility Chief of Staff and Associate Director for Patient Care Services.** The facility Chief of Staff and Associate Director for Patient Care Services are responsible for:

(1) Ensuring that VA providers understand their responsibility for providing medical statements and completing VA and non-VA forms in accordance with this directive.

(2) Designating a clinical subject matter expert(s) to serve as consultant(s) to the MS&F POC on special clinical issues related to non-VA medical statements and forms completion.

(3) Developing alternative strategies for situations when completion of a form extends beyond the scope of a VA provider or when completion of a form would disrupt the therapeutic relationship.

e. **VA Provider.** VA providers are responsible for:

(1) Completing VA and non-VA forms and medical statements received from or on behalf of patients with respect to a patient's medical condition and functionality, to the best of their ability based on their scope and clinical expertise. When completion of the form extends beyond the scope of the provider, the provider should assist by consulting with a specialty care expert as appropriate, reviewing evidence in the VA electronic medical record (including text documents, test results and vital measurements) pertinent to the condition and function that provides important information needed to complete medical forms and statements.

(2) Applying VHA privacy and release of information policies prior to releasing any forms or statements completed on behalf of the Veteran (see VHA Handbooks 1605.1 and 1907.06 on the VHA Publications Web site).

(3) Seeking further guidance and assistance from the designated facility MS&F POC, Risk Manager, Privacy Officer, or other facility representatives, when necessary, to address questions or issues that may arise while completing medical statements or VA and non-VA forms.

f. **Medical Statements and Forms Point of Contact.** The MS&F POC, or designee(s), is responsible for:

(1) Responding to questions or issues from local facility level staff and patients related to the completion of VA and non-VA forms or provision of medical statements.

(2) Serving as a resource to providers and other staff with patient requests or concerns related to completion of VA and non-VA forms or provision of medical statements.

(3) Consulting with the on issues that cannot be resolved at the local facility or VISN level, as needed.

6. REFERENCES

a. 38 CFR 17.38(a)(1)

b. VHA Directive 1315 Access to VHA Clinical Programs for Veterans Participating in State-Approved Marijuana Programs, dated December 8, 2017.

c. VHA Directive 1046, Compensation and Pension Disability Examinations, dated December 6, 2018.

d. VHA Directive 1601, Non-VA Medical Care Program, dated January 23, 2013.

e. VHA Directive 1601B.04, Decedent Affairs, dated December 1, 2017.

f. VHA Directive 1605.01, Privacy and Release of Information dated August 31, 2016.

g. VHA Handbook 1907.06, Management of Release of Information, dated January 18, 2013.

h. National Non-VA Care Program Office Intranet Page on the VHA Publications Web site.

i. VA DBQ Switchboard Intranet Page. ***NOTE:*** *This is an internal VA Web site that is not available to the public.*

j. VA DBQ Switchboard Internet Page (accessible to the public).

k. VHA Office of Disability and Medical Assessment (DMA) Intranet Page. ***NOTE:*** *This is an internal VA Web site that is not available to the public.*

l. DMA Fact Sheet 12-002, "DBQs and Primary Care Providers". ***NOTE:*** *This is an internal VA Web site that is not available to the public.*

m. VHA Chief Business Office Procedure Guide 1601.B, Chapter 4, Death Certificates. ***NOTE:*** *This is an internal VA Web site that is not available to the public.*

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