VA/DOD HEALTH-CARE RESOURCES SHARING

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1. Legal Authority.

a. Public Law 101-189 (1989), codified in Title 10, United States Code, Section 1104 (10 U.S.C. § 1104), provides that health-care resources of the Department of Defense (DOD) may be shared with health-care resources of the Department of Veterans Affairs (VA) in accordance with the following laws:

(1) 38 U.S.C. § 8111. This law (codified from Public Law 97-174 (1982)) provides that the Secretary of Veterans Affairs and the Secretaries of the military departments may enter into health-care resource sharing agreements under guidelines established jointly by the Secretary of Veterans Affairs and the Secretary of Defense.

(2) 31 U.S.C. § 1535. This law, also referred to as the Economy Act, permits the ordering of goods and services within and between governmental agencies, as implemented in Title 48, Code of Federal Regulations, Subpart 17-5, "Interagency Acquisition under the Economy Act," and in DODI 4000.19, subject: "Interservice and Intragovernmental Support," dated 9 Aug 95.

b. 10 U.S.C. § 1104 also provides that pursuant to an agreement under either of the above-cited laws, the VA may be reimbursed from CHAMPUS funds for medical care provided under Sections 1079 or 1086 of Title 10.

2. VA/DOD Health Care Resources Sharing Guidelines (Encl 1).

a. In order to promote the sharing of health-care resources between the two agencies, the law (38 U.S.C. § 8111(b)) established the Health-Care Resources Sharing Committee, composed of the VA Under Secretary for Health and the DOD Assistant Secretary of Defense for Health Affairs and their designees. After their consideration of recommendations made by that Committee, the Secretaries concerned were required

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to establish guidelines authorizing the heads of their respective medical facilities to enter into health-care resources sharing agreements.

b. On 29 Jul 83, the Secretary of Defense signed the Memorandum of Understanding with the VA in implementation of Public Law 97-174 (codified in 38 U.S.C. § 8111), which established the VA/DOD Health Care Resources Sharing Guidelines. As required in the law, these guidelines provide for sharing consistent with the health-care responsibilities of each agency so as not to adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency.

c. The heads of individual medical facilities of these agencies are authorized to enter into agreements in accordance with the established VA/DOD Guidelines. Under any such agreement, an individual who is a primary beneficiary of one agency may be provided health care at a facility of the other agency that is a party to the sharing agreement.

3. VA/DOD Healthcare Financial Management Committee (HFMC) (At Encl 2).

a. Under the above-cited 38 U.S.C. § 8111 and VA/DOD Guidelines, reimbursement under sharing agreements shall be based upon a methodology that is agreed upon by the agencies and that provides appropriate flexibility to the heads of the facilities concerned. Any funds received shall be credited to funds allotted to the facility that provided the services.

b. On 4 Dec 97, the HFMC charter was signed by representatives of both agencies. The HFMC was created for a 2-year period with authority for extension based on the direction of the VA/DOD Executive Council, and the authority in 38 U.S.C. § 8111 and 10 U.S.C. § 1104. The purpose of the HFMC is to facilitate expanded participation between the two Departments and their medical treatment facilities in reimbursable arrangements that are mutually beneficial; to establish policies and procedures therefor; and to resolve disputed issues related to such arrangements that cannot be resolved at local or intermediate organizational levels. The committee operates under the auspices and direction of the VHA Chief Financial Officer and the Deputy Assistant Secretary of Defense (Health Budgets and Programs).

c. On 4 Feb 98, the Acting Assistant Secretary of Defense (HA) provided The Military Surgeons General with a copy of the HFMC Charter, which contained the following attachments (At Encl 2).

(1) VA/DOD HFMC Guiding Principles. Such principles included, in part, statements that the Departments should see each other as partners in a long-term relationship and that local reimbursement arrangements should be structured so that the provider (seller) obtains adequate reimbursement to cover not less than the marginal costs and the purchaser does not pay more than the price at which such services could be obtained from other sources.

(2) HFMC VA/DOD Sharing Agreement Costing of Services Recommendations. Costing requirements of the Federal Standards Advisory Board, and cost accounting concepts and terms developed by the Joint Financial Management Improvement Program are cited; and the costs to be included and excluded are identified. Maximum flexibility is allowed in pricing from a low based on marginal cost to a high based on market price. Each agency is required to adopt this process in developing instructions to their respective medical facilities. Individualized instructions were considered necessary because of the different systems used by the branches of the military and the VA cost allocation system.

d. On 11 Mar 98, the U.S. Army Medical Command forwarded a copy of the ASD(HA) memorandum, 4 Feb 98; and the HFMC Charter, 4 Dec 97, with its two attachments to Commanders, MEDCOM Regional Medical Commands, as implementation (Encl 2).

4. Policy Memorandum—DOD/VA Separation Physical Examinations. (Encl 3)

a. On 28 Sep 98, the Assistant Secretary of Defense (Health Affairs) directed HA Policy 9900001 to the Assistant Secretary of the Army (M&RA), and the other military Assistant Secretaries, to be effective immediately. It provides that military members separating or retiring from Active Duty, Guard, or Reserve service “should undergo one physical examination for DOD purposes and the VA as the basis for rating disability compensation.” The HA Policy further provides:

(1) DOD MTF Commanders are required to collaborate with the appropriate VA Medical Center Director to develop and execute a cost-neutral Memorandum of Understanding (MOU) between their respective facilities.

(2) A standard VA Compensation and Pension (C&P) physical shall be performed on servicemembers who are referred to the Disability Evaluation System for determination of fitness, or who at the time of separation/retirement indicate a desire to apply for service-connected disability compensation from the VA.

(3) The individual's medical record should substantiate a potential for disability claim and include DD Form 2697, "Report of Medical Assessment." On 27 Feb 98, this form was prescribed in change 1, para 8-23, to AR 40-501, "Standards of Medical Fitness," with instructions to furnish a copy to the VA.

(4) The location for performance of such examinations as well as which facilities shall be used for laboratory, radiological, and other specialized testing will be determined by the MTF Commander and the VAMC Director and clearly delineated in the MOU.

b. On 1 Apr 99, the Office of the Assistant Secretary of the Army (M&RA) forwarded the above-cited HA Policy 9900001 to The Surgeon General for implementation, in coordination with the Deputy Chief of Staff for Personnel, and for a briefing on the plan within 120 days.

5. Agreement Form and Approval Process.

a. DOD has not issued a format to document VA/DOD Sharing Agreements. VA Form 10-1245c is currently being used for that purpose. The VA form includes instructions, and provides a convenient, uniform basis for processing agreements.

b. Under section 3-101 of the VA/DOD Guidelines, agreements must be submitted to the Assistant Secretary of Defense (Health Affairs) or his or her designee, through the appropriate chain of command. Agreements that are not disapproved by either agency become effective on the 46th

calendar day after receipt by both agencies ("the next higher organizational element within the chain of command for DOD").

If earlier approved by both agencies they become effective on the date of such approval. An office that disapproves a sharing agreement shall send a copy of the agreement with a written statement of its reasons for disapproval to the VA/DOD Health Care Resources Sharing Committee.

6. Modification, Termination, Renewal.

Section 3-107 of the VA/DOD Guidelines requires that each agreement shall include a statement of how the agreement may be modified and terminated. Each party shall annually review the agreement to make certain that the resources being provided are in accordance with the agreement.

7. Agency Procedures and Reporting.

a. The VA/DOD Health Care Resources Sharing Guidelines, Article IV, requires that each agency issue implementing and operating guidance to their organizational elements and medical facilities; and refer existing policies, procedures, and practices with respect thereto to the VA/DOD Health Care Resources Sharing Committee for its review.

b. Under Section 3-108 of the VA/DOD guidelines, medical facilities or organizations entering into or reviewing sharing agreements must send a copy to the VA/DOD Health Care Resources Sharing Committee. That Committee has the responsibility to prepare the annual report to Congress which the VA and DOD Secretaries will submit.

c. The law (38 U.S.C. § 8111(f)) requires that at the time the President's budget is transmitted to Congress, the Secretaries of Defense and Veterans Affairs shall submit a joint report to Congress on implementation of 38 U.S.C. § 8111 during the fiscal year that ended during the previous calendar year. The report must include the guidelines prescribed under Section 8111(c), with any revision; a review of the sharing agreements and summary of activities thereunder during the fiscal year; and recommendations for further improvement to promote sharing, including proposals for legislation.