Defense Health Agency

PROCEDURAL INSTRUCTION

NUMBER 6025.17
June 18, 2019

DAD, MA

SUBJECT: Healthcare Resolutions, Disclosure, Clinical Conflict Management and Healthcare Provider (HCP) Resiliency and Support in the Military Health System (MHS)

References: See Enclosure 1.

1. PURPOSE. This Defense Health Agency-Procedural Instruction (DHA-PI), based on the authority of References (a) through (c), and in accordance with the guidance (d) through (m), establishes Defense Health Agency's (DHA) procedures to:

a. Promulgate guidance, assign responsibilities, and prescribe procedures for the MHS Healthcare Resolutions Program as a major part of the MHS commitment to transparency.

b. Establish MHS procedures and implement DoD and DHA policies on issues related to management and disclosure of adverse, unexpected or unanticipated events, clinical conflict, and HCP resiliency and support.

c. Outline roles and responsibilities in the areas of disclosure of adverse and unexpected events, clinical conflict management, a patient's right to be heard, and HCP resiliency and support in the MHS.

2. APPLICABILITY. This DHA-PI applies to:

a. OSD, Military Departments, Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, Combatant Commands, Office of the Inspector General (IG) of the DoD, Defense Agencies, DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this DHA-PI as the "DoD Components").

b. Each DoD Military Medical Treatment Facility (MTF) and all of the uniformed services, medical or dental, and DoD Healthcare Providers (HCPs), including United States Public Health Service personnel, volunteers, contractors, or other individuals authorized to provide or support the provision of healthcare services to eligible beneficiaries in such MTFs.

3. POLICY IMPLEMENTATION. It is the DHA's implementation instruction, pursuant to References (a) through (m), and in accordance with DoD policy, that:

a. A Healthcare Resolutions Program is fully implemented within the MHS as directed by Reference (c).

b. Patients, and when appropriate, family members or healthcare proxy, be fully informed of adverse, unanticipated or unexpected events that occur during the provision of healthcare services.

c. The Healthcare Resolutions Program will facilitate the patient's right to be heard in any quality assurance program review of the quality of care.

d. Special Assistants for Healthcare Resolutions shall have a clinical background representing a depth and breadth of experience that demonstrates the ability to manage complex clinical and bioethical concerns.

e. Trained Special Assistants for Healthcare Resolutions are fully supported in the promotion and oversight of processes related to disclosure of adverse, unexpected or unanticipated outcomes of care, management of clinical conflict and HCP resiliency after experiencing an adverse, unexpected or unanticipated outcome of care.

4. RESPONSIBILITIES. See Enclosure 2.

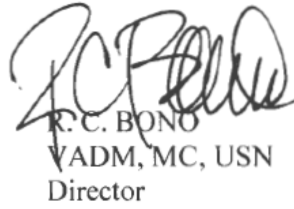
5. PROCEDURES. See Enclosures 3 and 4.

6. RELEASABILITY. **Cleared for public release**. This DHA-PI is available on the Internet from the Health.mil site at: http://www/health.mil/dhapublications.

7. EFFECTIVE DATE. This DHA-PI:

a. Is effective upon signature.

b. Shall expire 10 years from the date of signature if it has not been reissued or cancelled before this date in accordance with DHA-Procedural Instruction 5025.01 (Reference (e)).



R. C. BONO
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Director

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ENCLOSURE 1

REFERENCES

(a) DoD Directive 5136.01, "Assistant Secretary of Defense for Health Affairs (ASD(HA))," September 30, 2013, as amended
(b) DoD Directive 5136.13, "Defense Health Agency (DHA)," September 30, 2013
(c) Under Secretary of Defense Memorandum, "Strengthening Clinical Quality Management in the Military Health System," April 1, 2019
(d) DoD Manual 6025.13, "Medical Quality Assurance (MQA) And Clinical Quality Management in the Military Health System (MHS)," October 29, 2013
(e) DHA-Procedural Instruction 5025.01, "Publication System," August 24, 2018
(f) Director of DHA Memorandum, "Peer Support Initiative for Military Health System Providers," August 16, 2017
(g) United States Code, Title 10
(h) The Joint Commission, "Comprehensive Accreditation and Certification Manual for Hospitals"
(i) United States Code, Title 42
(j) DoD 5400.11-R, "Department of Defense Privacy Program," October 29, 2014
(k) DoD Instruction 6025.18, "Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Compliance in DoD Health Care Programs," March 13, 2019
(l) DoD Manual 6025.18, "Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Compliance in DoD Health Care Programs," March 13, 2019
(m) The Privacy Act of 1974

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR, DHA. Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, through the Assistant Secretary of Defense for Health Affairs, and in accordance with DoD policies and issuances, the Director, DHA, shall:

a. Ensure the proper management and execution of the Healthcare Resolutions Program.

b. Define key elements of the Healthcare Resolutions Program.

2. ASSISTANT DIRECTOR-HEALTHCARE ADMINISTRATION (AD-HCA), DHA. Under the authority, direction and control of the Director, DHA, the AD-HCA, shall:

a. Define key elements of the Healthcare Resolutions Program.

b. Provide oversight, support, direction, and guidance for effective management and execution of the Healthcare Resolutions Program.

3. DEPUTY ASSISTANT DIRECTOR-MEDICAL AFFAIRS (DAD-MA), DHA. Under the authority, direction, and control of the AD-HCA, the DAD-MA, DHA shall:

a. Oversee and provide functional; supervision and support to the Healthcare Resolutions Program, the Healthcare Resolutions Program Manager (PM) and service Special Assistants for Healthcare Resolutions.

b. Collaborate with the Healthcare Resolutions PM to ensure full implementation of the Healthcare Resolutions Program.

4. GENERAL COUNSEL (GC), DHA. Under the authority, direction, and control of the Director, Defense Legal Services Agency, the GC, DHA, shall:

a. Provide legal advice to Healthcare Resolutions PM and Service Special Assistants for Healthcare Resolutions during development, drafting, or revision of policies and/or procedures under the purview of the Healthcare Resolutions Program.

b. Provide all required legal reviews, including presignature legal sufficiency review, for all policies and/or procedures under the purview of the Healthcare Resolutions Program, and correspondence drafted by the Special Assistants for Healthcare Resolutions.

c. Serve in an advisory capacity to the Special Assistants for Healthcare Resolutions, providing guidance and counsel regarding issues related to disclosure of adverse, unexpected or unanticipated outcomes of care; clinical conflict management; and/or peer support.

d. Refer, or recommend referral of appropriate cases to the Special Assistants for Healthcare Resolutions.

5. HEADS OF THE MHS HEADQUARTERS (HQ) COMPONENTS. The heads of MHS HQ components, including DHA Market Directors, shall:

a. Ensure MTFs implement the Healthcare Resolutions Program and all processes, procedures and training outlined in this DHA-PI.

b. Ensure MTF Commanders and Directors provide opportunities for appropriate staff to receive training as outlined in this DHA-PI.

c. Ensure MTF Commanders and Directors establish processes in accordance with the guidance in this DHA-PI, to ensure patients, and when appropriate, family members or healthcare proxy, are fully informed of adverse, unanticipated or unexpected events that occur during the provision of healthcare services.

d. Ensure MTF Commanders and Directors establish processes in accordance with the guidance in this DHA-PI, to ensure HCPs are fully supported after an adverse, unexpected, or unanticipated event.

6. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments, with respect to health care services delivered under their authority, through the Surgeons General of the Military Departments shall:

a. Implement effective healthcare resolutions support to ensure compliance with this DHA-PI.

b. Ensure provisions for access to services under the scope of the Healthcare Resolutions Program when care is provided outside of an MTF (e.g. operational environment).

7. MTF COMMANDERS AND DIRECTORS. MTF Commanders and Directors, subject to the authority, direction, and control of their higher HQs, shall:

a. Ensure facility policy and procedures for disclosure of adverse, unexpected, or unanticipated events remains current and conforms to this DHA-PI.

b. Support Special Assistants for Healthcare Resolutions implementation of the Healthcare Resolutions Program for their assigned MTF and all processes, procedures and training outlined

in this DHA-PI.

c. Ensure all Licensed Independent Practitioners (LIPs) and privileged providers complete disclosure training with a Special Assistant for Healthcare Resolutions at a minimum of every 2 years.

d. Establish processes to ensure HCPs are fully supported after an adverse, unexpected, or unanticipated event.

e. Provide administrative support (at facilities where Special Assistants for Healthcare Resolutions are physically located) for the Special Assistant for Healthcare Resolutions.

f. Directly supervise the Special Assistant for Healthcare Resolutions (at facilities where Special Assistants for Healthcare Resolutions are physically located) when such supervision has not been assigned to the Healthcare Resolutions PM or other DHA entity, and ensure that Special Assistant for Healthcare Resolutions operations are distinct and separate from Quality Management Operations, Legal services, and Patient Relations.

8. HEALTHCARE RESOLUTIONS PM AND/OR HIS OR HER DESIGNEE. Healthcare Resolutions PM and/or His or Her Designee, shall:

a. Serve as the principal advisor to the Director, DHA, DAD, MA, Secretaries of the Military Departments and heads of MHS HQ components, including Market Directors on all matters related to the Healthcare Resolutions Program in the MHS.

b. Ensure consistency of operational processes with regards to healthcare resolutions, disclosure training, peer support programs and clinical conflict management.

c. Serve as the subject matter expert and liaison for promoting the Healthcare Resolutions Program and processes within the DoD, MHS, Governmental Agencies and to the Private Sector.

d. Provide budget program and obligation data, as requested by Director, DHA.

e. Provide direct supervision of Special Assistants for Healthcare Resolutions when such supervision has not been assigned to a facility Director or Commander.

f. Collate Healthcare Resolutions Program data annually in January, report trends, lessons learned and key recommendations to the Director, DHA, and DAD, MA. The following data shall be collated:

(1) Numbers of cases/classification of cases by type (cases involve direct intervention with patients/families, providers and organizations to address specific issues).

(2) Numbers of consults/classification of consults by type (consults involve provision of guidance/coaching, not requiring intensive engagement with patients, providers or

organizations).

(3) Numbers of disclosure trainings/numbers of providers who receive disclosure training.

(4) Numbers of trained peer supporters and interventions.

(5) Numbers and types of disclosure letters.

(6) Disclosure issues shared with Healthcare Resolutions colleagues to be implemented at other MTFs as appropriate.

(7) Numbers of engagements with operational medicine platforms.

(8) Numbers of mass notifications and involvement with issues that have, or could result in significant public scrutiny, or jeopardize the integrity of the MHS.

(9) Engagements with other Government Agencies or the Private Sector.

(10) Involvement in cases and/or consults outside of an MTF. These numbers shall also be reported to the SGs, along with any identified trends.

9. SPECIAL ASSISTANTS FOR HEALTHCARE RESOLUTIONS. The Special Assistants for Healthcare Resolutions shall:

a. Serve as the principal executive staff advisor to MTF Commanders and Directors, and HCPs concerning matters of disclosure, clinical conflict management and provider resiliency following adverse, unanticipated or unexpected healthcare events.

b. Act as the liaison between HCPs, patients, families, staff and leadership concerning matters related to disclosure, clinical conflict management and provider resiliency following adverse, unanticipated or unexpected healthcare events.

c. Direct the conflict management process between patient/family and HCPs to effectively seek fair and equitable solutions to resolve patient-provider concerns and disputes related to clinical care and treatment.

d. Provide education and training to healthcare staff on disclosure, clinical conflict management and peer support.

e. Serve as consultant to higher HQs and MTF leadership with regard to disclosure of adverse events requiring mass notifications, involvement with issues that have, or could result in significant public scrutiny, or that could jeopardize the integrity of the MHS.

f. Provide feedback to higher HQs regarding patient, provider and systemic issues affecting

healthcare delivery.

g. Serve as a consultant with respect to organizational responses to governing and regulatory agencies, and other public inquiries (e.g. The Joint Commission (TJC), AAAHC, Congressional, IG or media inquiries involving quality of patient care issues).

h. Brief the appropriate servicing legal counsel on cases that may have legal implications, including potential claims against the Federal Government; and advise the appropriate servicing legal counsel if notified that a patient is represented by legal counsel and/or intends to file a claim against the Government.

i. Maintain currency in techniques related to mediation of bioethical disputes through engagement in appropriate educational activities and experiential learning.

j. Refer concerns of a non-clinical nature to the appropriate representatives for patient advocacy, patient relations, customer service, and/or individuals holding similar responsibilities.

k. Provide program data annually and report trends, lessons learned and key recommendations to the Healthcare Resolutions PM.

l. Preserve confidentiality under applicable law, including Section 1102 of Reference (g).

m. Work with MTF leadership to ensure implementation of processes for the patient's right to be heard, consistent with Enclosure 4.

10. CLINICAL QUALITY MANAGEMENT OFFICIALS. Clinical Quality Management Officials, to include leaders in Quality, Patient Safety (PS) and Risk Management Programs, and departments, or individuals holding similar responsibilities shall:

a. Collaborate with the Special Assistants for Healthcare Resolutions to ensure an opportunity is available for patients and/or family members to provide input into clinical quality concerns, while ensuring protection of information is covered in accordance with Section 1102 of Reference (g), and as outlined in Enclosure 4 of this DHA-PI.

b. Refer appropriate cases to Special Assistants for Healthcare Resolutions while refraining from sharing information covered in accordance with Section 1102 of Reference (g).

c. Accept referrals from Special Assistants for Healthcare Resolutions without expectation that information concerning matters under the purview of the Healthcare Resolutions Program shall be shared.

11. HCPs. HCPs shall:

a. Disclose adverse, unanticipated or unexpected event outcomes to patients and when

appropriate, to their family members or healthcare proxy as outlined in Enclosure 3 of this DHA-PI.

b. Ensure initial disclosure conversation and any subsequent related conversations are documented in the medical record in a timely manner.

c. Collaborate with the Special Assistant for Healthcare Resolutions to seek equitable outcomes for all involved in adverse, unanticipated or unexpected outcomes of care.

d. Support colleagues and healthcare team members through providing peer support as outlined in Enclosure 3 of this DHA-PI.

e. Complete disclosure training at a minimum of every 2 years as outlined in Enclosure 3 of this DHA-PI.

f. Consult with and/or refer appropriate cases to the Special Assistants for Healthcare Resolutions.

12. <u>REPRESENTATIVES FOR PATIENT ADVOCACY, PATIENT RELATIONS, CUSTOMER SERVICE, DEPARTMENTS, AND INDIVIDUALS HOLDING SIMILAR RESPONSIBILITIES</u>. Representatives for Patient Advocacy, Patient Relations, Customer Service, Departments, and individuals holding similar responsibilities shall:

a. Refer cases of a clinical nature to the servicing Special Assistant for Healthcare Resolutions.

b. Receive guidance from the servicing Special Assistant for Healthcare Resolutions regarding appropriate case referrals in accordance with Enclosure 3 of this DHA-PI.

c. Accept customer service referrals from the servicing Special Assistant for Healthcare Resolutions.

ENCLOSURE 3

PROCEDURES

1. HEALTHCARE RESOLUTIONS PROGRAM

a. Scope. The scope includes all MHS activities, including garrison and, to the extent feasible, operational platforms and locations; activities conducted by MHS personnel at partner facilities under official agreements or memoranda; activities conducted through joint programs when they involve a DoD or MHS HCP or beneficiary; and/or other clinical activities.

b. Mission. The mission of the Healthcare Resolutions Program is to promote a culture of high reliability, by facilitating and providing interventions that emphasize organizational transparency through full disclosure of unanticipated or adverse clinical events and restore trust and healing through conflict resolution.

c. Vision. The vision of the Healthcare Resolutions Program is to serve as the designated neutral cornerstone for resolving clinically related conflict by capturing every opportunity for engagement and fostering meaningful resolution in a non-legal venue.

d. Reporting, Neutrality, and Confidentiality

(1) Reporting

(a) Independence. To be credible and effective, the Special Assistant for Healthcare Resolutions is independent in program structure, function, and appearance. Independence means the Special Assistant for Healthcare Resolutions is free from interference in the legitimate performance of duties and independent from control, limitation, or a penalty imposed for retaliatory purposes by an official of the appointing entity, or by a person who may be the subject of a complaint or inquiry.

1. In furtherance of the requirement for independence, in circumstances where administrative supervision of individual Special Assistants for Healthcare Resolutions is assigned to the Commander or Director of the facility where the Special Assistant for Healthcare Resolutions is assigned, the Commander or Director shall be responsible for directly supervising the Special Assistant for Healthcare Resolutions and such supervision shall not be delegated to any individual responsible for oversight or management of clinical quality operations. Additionally, oversight of the work done by the Special Assistant for Healthcare Resolution shall respect the independent nature of the Healthcare Resolutions Program work.

2. Functional supervision of the Healthcare Resolutions Program shall fall under the DAD, MA, DHA.

3. Individual case concerns shall be managed in collaboration with the MTF Commander or Director of the facility or appropriate higher HQs.

(2) Neutrality. The Special Assistant for Healthcare Resolutions:

(a) Does not serve as an advocate for any individual involved in a dispute within the organization. The Special Assistant for Healthcare Resolutions promotes a fair resolution process in a neutral setting. When forwarding recommendations, the Special Assistant for Healthcare Resolutions has the responsibility to suggest actions, policies, and/or resolutions that will be equitable to all parties.

(b) Conducts inquiries and informal fact finding efforts in an impartial manner, free from bias and conflicts of interest. Impartiality does not preclude the Special Assistant for Healthcare Resolutions from developing an interest in securing changes that are deemed necessary as a result of the process.

(c) May become a consultant within the entity for change where the process demonstrates a need for it.

(3) Confidentiality

(a) The Special Assistant for Healthcare Resolutions shall not divulge and shall not be required or compelled to divulge any information provided in confidence, except to address an imminent risk of serious harm, direct threats or as otherwise required by law. There is no absolute confidentiality under federal or state law.

(b) The Special Assistant for Healthcare Resolutions shall not reveal the identity of a complainant without that person's express consent.

(c) All access to the use of patient records shall be handled in accordance with the requirements of the Privacy Act and health information privacy regulations issued under the Health Insurance Portability and Accountability Act (References (k) through (m)).

(d) Special Assistants for Healthcare Resolutions do not enter reports into the PS reporting system nor do they report individual cases to Quality Services without the permission of the parties involved.

(e) Special Assistants for Healthcare Resolutions support appropriate reporting and encourage involved parties to speak with their functional leadership and/or enter PS reports.

(f) As a practice Special Assistants for Healthcare Resolutions do not create or maintain formal case files or discoverable documents and are mindful that electronic communications may potentially be discoverable.

e. Processes and Procedures. Special Assistants for Healthcare Resolutions use evidence-based processes and procedures to address issues related to disclosure, transparency, clinical conflict and HCP resiliency and support. Program protocols are reviewed and updated every 2

years by the Healthcare Resolutions PM in collaboration with the DHA DAD-MA and the Special Assistants for Healthcare Resolutions.

f. Referrals

(1) All Special Assistants for Healthcare Resolutions are considered to be Tri-Service assets. Anyone can directly refer concerns to any Special Assistant for Healthcare Resolutions regardless of Service affiliation. Potential sources of referrals include, but are not limited to the following:

(a) Leadership including but not limited to DHA, Military Department Facility, Line Unit Leaders, Military Department SGs, MHS Markets, installation, or garrison leadership, and individuals working with the DoD via formal agreements or memoranda;

(b) GC, DHA, Staff Judge Advocate, Service Legal Counsel to the SG, and/or Medical Legal Consultant;

(c) HCPs;

(d) MTF Commanders or Directors;

(e) Department Heads;

(f) Clinic Managers;

(g) Patient Advocacy, Patient Relations and/or Customer Service Representative;

(h) Patients, Families and Healthcare Proxy;

(i) Patient Administration;

(j) Ethics Committee;

(k) Chaplain;

(l) IG;

(m) Institutional Review Boards; and

(n) Medical Researchers

(2) Referrals may be made by directly contacting the Special Assistant for Healthcare Resolutions geographically closest to the facility or parties involved, or by contacting the DHA Healthcare Resolutions PM, or individual service Special Assistants for Healthcare Resolutions.

(3) There are no fixed referral criteria, however the Special Assistant for Healthcare Resolutions is intended to provide an informal and confidential internal access point for a wide

range of patient and provider concerns related to clinical treatment and care. Issues appropriate for referral to the Healthcare Resolutions Program include but are not limited to the following:

(a) Adverse, unexpected or unanticipated outcomes of care;

(b) DoD Reportable Events (DoD REs);

(c) PS events;

(d) Potentially compensable events;

(e) Medical/medication errors with patient impact;

(f) Delay in diagnosis or misdiagnosis (perceived or real);

(g) Expected or unexpected deaths;

(h) Disclosure of outcomes of care;

(i) Events requiring mass notifications and/or issues that have, or could result in significant public scrutiny, or jeopardize the integrity of the MHS (e.g., medication recalls, laboratory/pathology errors, infection control concerns);

(j) Near miss occurrences that come to the patient or community's awareness;

(k) Poor patient/caregiver-HCP interaction (related to care or treatment);

(l) Elevation of care caused by hospital/nosocomial infections or other adverse outcomes;

(m) Potential disengagement or debarment of patients;

(n) Patients/caregivers who refuse treatment or who leave against medical advice;

(o) Mediation of communication, personality or information-based disputes that have an impact on clinical care or treatment;

(p) Mediation of bioethical concerns;

(q) Facilitation and mediation of case/family conferences;

(r) Official Complaints related to care or treatment (e.g., Congressional Complaints, IG Complaints, Complaints to governing bodies such as TJC, and Accreditation Association for Ambulatory Health Care (AAAHC), or State Boards); and

(s) Concerns related to HCP resiliency and support following adverse events,

involvement in claim or clinical investigation, adverse actions related to the provision of health care or reporting to governing agencies.

g. Legal Considerations

(1) The Healthcare Resolutions Program is a non-legal venue that serves as a source of alternative dispute resolution for clinical concerns and conflict.

(2) The Healthcare Resolutions Program does not exist to prevent claims against the Federal Government, however Healthcare Resolutions processes may have the result of decreasing the likelihood that a claim may be filed.

(3) Special Assistants for Healthcare Resolutions do not accept legal notice or service of process notice for the organizations. Such inquiries are directed to the appropriate servicing legal counsel.

(4) Independent patient or provider legal representatives or counsel are not permitted to participate in activities conducted through the Healthcare Resolutions Program.

(5) With the exception of working notes, Special Assistants for Healthcare Resolutions do not create or keep official files and do not document in the medical record.

(6) Potential claims against the Federal Government that come to the attention of the Special Assistants for Healthcare Resolutions through case work shall be reported to and monitored by legal counsel.

(7) Special Assistants for Healthcare Resolutions do not offer any legal advice to participants in the program. The servicing legal counsels do not offer legal advice to individuals via the Special Assistants for Healthcare Resolutions.

(8) Any subpoenas received by the organization requesting records or testimony from the Special Assistants for Healthcare Resolutions shall be immediately referred to the appropriate servicing legal counsel for coordination and response per governing policy.

(9) Should patients opt to file a claim against the Federal Government, the process is transferred to a formal legal venue and the Special Assistant for Healthcare Resolutions disengages from further patient communications related to the involved event but may continue to provide resources for HCP resiliency and support.

(10) The Special Assistants for Healthcare Resolutions are not authorized to intervene once a claim has been filed against the Federal Government regarding care delivery/care results and has an obligation to coordinate retention of working notes from any previous involvement with the servicing legal counsel.

(11) Special Assistants for Healthcare Resolutions shall consult with the appropriate servicing legal counsel if intervention in a specific case is questionable.

(12) Special Assistants for Healthcare Resolutions do not access information that is protected in accordance with Section 1102 of Reference (g).

h. Special Considerations. The requirements of this DHA-PI apply to all health care services in the MHS. However, for care in deployed settings, the application of some requirements is subject to limitations of feasibility. For example, Special Assistants for Healthcare Resolutions will not be present at such locations and some proceedings and procedures that would be common in installation MTFs will not be applicable in deployed settings. Communications with Healthcare Resolutions personnel may still be feasible and appropriate, however, and in such cases must be made available. Similarly, principles of disclosure of accurate and complete clinical information to patients apply equally in all clinical settings.

2. DISCLOSURE AND TRANSPARENCY

a. Disclosure Communication. Primary providers responsible for the patient shall disclose adverse, unexpected and unanticipated outcomes to patients and when appropriate, to their family members and/or the patient's legally authorized representative.

(1) The LIP and/or privileged provider responsible for managing the patient's care, treatment, and services, or his or her designee, shall inform the patient and, when appropriate family member or healthcare proxy about unanticipated outcomes of care, adverse outcomes, treatment, and services. The LIP and/or privileged provider shall also be available when further discussion is needed.

(2) The LIP, privileged provider and other HCPs involved in the disclosure communication shall document the disclosure conversation, and any subsequent related conversations in the medical record.

(3) The following information shall not be disclosed as part of the disclosure communication:

(a) Information protected in accordance with Section 1102 of Reference (g).

(b) Disciplinary or administrative actions.

(c) HCPs involved in disclosure communications shall not make admissions of or offer opinions regarding liability or negligence. Disclosure is based on accurate and complete descriptions of the care provided, the outcomes, and the patient's condition, including any adverse or unexpected circumstances.

(4) Special Assistants for Healthcare Resolutions shall coach providers and staff in the completion of appropriate disclosure and related documentation.

b. Disclosure Training. All LIPs and privileged providers shall be required to attend disclosure training at a minimum of every 2 years.

(1) Special Assistants for Healthcare Resolutions shall provide opportunities for disclosure training that meet the needs of their assigned region.

(2) Other licensed and registered providers are not required to attend disclosure training; however, it is recommended that they attend as the information provided is relevant to the practice of all HCPs as well as the culture of the organization; therefore, non-credentialed providers shall be encouraged to attend.

c. Transparency. In furtherance of the principles of High Reliability, the Healthcare Resolutions Program shall encourage and support transparency throughout the MHS.

(1) The Healthcare Resolutions PM shall collaborate with MHS leadership to ensure that policies are implemented to promote transparency in healthcare practices and outcomes, and to ensure compliance with Reference (c) of this DHA-PI.

(2) Special Assistants for Healthcare Resolutions shall assist facilities within their region of responsibility to draft and implement policies and instructions to ensure transparency and appropriate disclosure.

3. CLINICAL CONFLICT MANAGEMENT

a. Mediation. Clinical conflict concerns may emanate from a variety of issues and involve various parties. Special Assistants for Healthcare Resolutions are trained in mediation techniques and may assist parties to reach resolution before and after issues have had an impact on the provision of patient care.

(1) Special Assistants for Healthcare Resolutions may mediate concerns having an impact on clinical care or treatment between the following parties:

(a) Patients/caregivers – Providers

(b) Patients/caregivers – Facility/Healthcare System

(c) Military leadership – Provider/Facility

(d) Healthcare Provider – Healthcare Provider

(e) Department – Department

(2) Categories of clinical conflict that may be appropriate for mediation include but are not limited to:

(a) Issues related to communication, information, emotions, and empathy.

(b) Family member/caregiver dynamics.

(c) Physician-Patient biases and stereotypes (e.g., patients perceived as difficult, high utilizers).

(d) Patient/Caregiver cultural differences, disparate goals and values and/or end of life disputes.

(e) Patients and/or providers experiencing a loss of confidence in the healthcare system.

(f) Disputes between line leadership and the organization, departments or providers related to clinical practice or policies.

(g) Disputes between the organization and staff members; providers; or departments related to clinical practice or policies, unanticipated outcomes, adverse clinical outcomes, and/or concerns for potential outcomes of care.

b. Official Complaints Related to Care and Treatment. Organizations may receive complaints or concerns related to the provision of care from multiple sources. Special Assistants for Healthcare Resolutions can assist with responses to these concerns. Sources of official complaints appropriate for Special Assistant for Healthcare Resolutions intervention include but are not limited to:

(1) Congressional complaints,

(2) IG complaints,

(3) TJC or AAAHC complaints,

(4) Media requests for information related to clinical practices; and,

(5) Inquiries from other regulatory agencies not previously mentioned.

4. HCP RESILIENCY AND SUPPORT

a. Appropriate support services shall be offered to all involved HCPs after an adverse, unexpected or unanticipated event.

b. Special Assistants for Healthcare Resolutions shall be responsible for establishing peer support programs and training appropriate peer supporters at their home facility.

c. Trained peer supporters may be called upon to provide services for HCPs outside of their Service and/or facility.

d. The Peer Support Program provided through the Healthcare Resolutions Program is not intended to replace or supersede services provided through other programs or venues; instead the goal of the Healthcare Resolutions Peer Support Program is to supplement available services and

provide targeted response to provider moral distress related to clinical practice and/or adverse actions impacting clinical practice.

e. The Peer Support Program is separate from the event investigation and does not involve case analysis, review of medical records or documentation of any nature, or any interference with quality assurance or legal processes.

f. The Peer Support Program is intended to provide psychological first aid and assist with restoring clinical confidence.

g. Participation in the Peer Support Program does not convey any privilege or confidentiality.

ENCLOSURE 4

PATIENT'S RIGHT TO BE HEARD

1. GENERAL. This enclosure describes a patient's right to be heard in any QA program review of care provided by an MTF. MTF Special Assistants for Healthcare Resolutions will work with the MTF Commander or Director to ensure that the MTF establishes and follows appropriate procedures to implement the requirements of this Enclosure, and will, when consistent with the other requirements of this DHA-PI, support communications with patients.

2. PATIENT'S OPPORTUNITY. Any patient, including any Service member, who believes he or she suffered a personal injury due to a perceived failure of an MTF to provide quality medical care must have the right to submit his or her concerns as part of a QA review of the care provided.

3. PROCEDURES

a. The MTF Commander or Director will ensure that the patient has notice of this opportunity and must advise the patient whether the opportunity must be through personal presentation or written presentation.

b. The opportunity provided in accordance with this enclosure may be provided in association with the Healthcare Resolutions Program. However, the opportunity must be provided without regard to whether the Healthcare Resolutions Program is involved and without regard to whether the patient has filed a claim for compensation or retained legal counsel.

c. A patient is entitled to the assistance of legal counsel of the patient's choosing not at government expense. However, legal counsel does not participate in Healthcare Resolutions processes.

d. In the case of a patient's death or incapacitation, or if the patient is a child, the opportunity to submit concerns must be available to the next of kin or other close family member.

e. In any case in which a patient (or legal representative) submits concerns in accordance with this enclosure, those concerns must be considered as part of a QA review of the care provided. However, the results of any QA review are protected in accordance with Section 1102 of Reference (g), and may not be disclosed to the patient or the patient's representative.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AD	Assistant Director
DAD	Deputy Assistant Director
DHA	Defense Health Agency
DHA-PI	Defense Health Agency-Procedural Instruction
DoD RE	DoD Reportable Event
GC	General Counsel
HCA	Healthcare Administration
HCP	Healthcare Provider
HQ	Headquarters
IG	Inspector General
LIP	Licensed Independent Practitioner
MA	Medical Affairs
MHS	Military Health System
MTF	Military Medical Treatment Facility
PM	Program Manager
PS	Patient Safety
SG	Surgeon General
TJC	The Joint Commission

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this DHA-PI.

Adverse Event. Unintended occurrences or conditions associated with care or services that reach the patient and may or may not result in harm to the patient. These may be because of acts of commission or omission.

DoD RE. PS events that meet the following definition: Any PS event resulting in death, permanent harm, or severe temporary harm, which includes TJC, sentinel event, and the National Quality Forum's serious reportable events. DoD REs require a comprehensive systematic analysis and follow on Corrective Action Implementation Plan Report.

<u>HCP</u>. Military (active or reserve component) and civilian personnel (Civil Service and providers working under contractual or similar arrangement), organizations or groups who either directly provide, or support the provision of healthcare services. For purposes of this DHA-PI, a distinction is not made between privileged and non-privileged providers as procedures and processes in this DHA-PI are applicable to all who are responsible for the provision of healthcare.

<u>LIP</u>. An individual permitted by law and by the organization to provide care, treatment, and services without direction or supervision. A LIP operates within the scope of his or her license, consistent with individually granted clinical privileges.

<u>MHS</u>. Consists of the DoD medical and dental programs, personnel, facilities, and other assets operating pursuant to Chapter 55 of Reference (f), by which the DoD provides healthcare services and support to the Military Services during the range of military operations, and healthcare services and support to members of the Military Services, their family members, and others entitled to DoD medical care.

<u>Peer</u>. A provider with generally similar privileges, practice, clinical specialty, and level of training.

<u>Peer Review</u>. Any assessment of the quality of medical care carried out by a healthcare professional, including any such assessment of professional performance, any PS program comprehensive systematic analysis or report, or any other such assessment carried out by a healthcare professional under References (b) through (d).

<u>PS event</u>. A PS event is an incident, or condition that could have resulted or did result in harm to a patient. A PS event can be but is not necessarily the result of a defective system or process design, a system or process breakdown, equipment failure or malfunction, or human error. PS events include adverse events, no-harm events, near miss, and unsafe/hazardous conditions.

(1) <u>adverse event</u>. PS event that resulted in harm to the patient. The event may occur by the omission or commission of medical care.

(2) <u>no-harm event</u>. PS event that reached the patient but did not cause harm.

(3) <u>near miss event</u>. PS event that did not reach the patient (also known as “close call” or “good catch”).

(4) <u>unsafe/hazardous condition</u>. A condition or a circumstance (other than a patient’s own disease process or condition) that increases the probability of an adverse event.