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GC, DoD

Department of Defense Directive

SUBJECT Medical Malpractice Claims Against Military and Civilian Personnel of the Armed Forces

- References:**
- (a) Public Law 94-464, § 1(a), 90 Stat. 1985, Title 10, United States Code, Section 1089(f)
 - (b) Title 10, United States Code, Section 2733, "Military Claims Act"
 - (c) DoD Directive 5515.9, "Settlement of Claims under the Provisions of the Federal Tort Claims Act," November 15, 1961

A. PURPOSE

This Directive (1) delegates authority, with the power to redelegate, to the Secretaries of the Military Departments to provide relief to health care personnel of the Department of Defense from personal tort liability in connection with their authorized activities, and (2) establishes procedures to be followed in providing such relief.

B. APPLICABILITY

The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, and all other Department of Defense Components.

C. DELEGATION OF AUTHORITY

1. The authority vested in the Secretary of Defense by Title 10, U.S.C., section 1089(f) (reference (a)) to hold harmless or provide liability insurance for Department of Defense health care personnel is hereby delegated to (a) the Secretary of each Military Department for military members and civilian employees of his Department, and (b) the Secretary of the Army

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for civilian employees of the Office of the Secretary of Defense and Department of Defense Components other than the Military Departments (see DoD Directive 5515.9 (reference (c))).

2. The authority delegated above may be re delegated as appropriate and necessary to carry out the provisions of Title 10, U.S.C., section 1089(f) (reference (a)).

D. PROCEDURES

1. In all cases under Title 10, U.S.C., section 1089, medical personnel shall be required to (a) promptly forward all process served upon them or attested true copies thereof to the appropriate official designated by the Secretary of the Military Department concerned, (b) furnish such other information and documents as the Attorney General may request, and (c) comply with the directions of the Attorney General relative to the final disposition of a claim for damages.

2. The procedures set forth in Title 10, U.S.C., section 2733 (reference (b)) and regulations issued pursuant thereto shall be utilized in determining costs, settlements, or judgments under Title 10, U.S.C., section 1089(f) (reference (a)).

E. EFFECTIVE DATE AND IMPLEMENTATION

1. This Directive is effective as to claims and suits accruing on or after October 8, 1976.

2. Forward two copies of implementing regulations to the General Counsel of the Department of Defense for approval within 90 days.

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C. W. Dunham
Deputy Secretary of Defense

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