



# Department of Defense

## DIRECTIVE

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GC, DoD

SUBJECT: Defense of Certain Medical Malpractice Claims Against Department of Defense Healthcare Providers

References: (a) DoD Directive 6000.6, "Medical Malpractice Claims Against Military and Civilian Personnel of the Armed Forces," August 2, 1977 (hereby canceled)  
(b) Sections 1089(f), 1091, and 2733 of title 10, United States Code  
(c) Sections 1346(b) and 2671-2680 of title 28, United States Code

### 1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to establish policy and assign responsibilities under 10 U.S.C. 1089(f) (reference (b)) to provide relief to healthcare providers of the Department of Defense from certain malpractice personal tort liability claims in connection with their authorized activities.

### 2. APPLICABILITY AND SCOPE

2.1. This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

2.2. This Directive also applies to healthcare providers of the Armed Forces Retirement Home (AFRH) and DoD healthcare providers.

### 3. DEFINITIONS

3.1. DoD Healthcare Provider. Any member of the Armed Forces, civilian employee of the Department of Defense, or personal services contract employee under 10 U.S.C. 1091 (reference (b)) authorized by the Department of Defense to perform healthcare functions. The term does not include any contract provider who is not a personal services contract employee.

3.2. Healthcare Functions. Medical, dental, and related healthcare activities, including clinical studies and investigations.

### 4. POLICY

It is DoD policy that:

4.1. The Department of Defense may, to the extent authorized by 10 U.S.C. 1089(f) (reference (b)), hold harmless or provide liability insurance for any DoD healthcare provider for damages for personal injury or death caused by such person's negligent or wrongful act or omission in connection with his or her authorized activities performing healthcare functions while assigned to a foreign country or detailed for service with other than a Federal Department, Agency, or instrumentality, or under circumstances likely to preclude third persons from recovery for damage or injury under Sections 1346(b) and 2671-2680 of title 28 U.S.C. (reference (c)). The AFRH may exercise comparable authority with respect to any AFRH healthcare provider.

4.2. The authority of paragraph 4.1. also includes the authority to provide for reasonable attorney's fees in relation to tort claims and litigation seeking such damages.

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

4.4. Funds available to the Department of Defense and the AFRH for performance of the healthcare functions involved may, to the extent allowed by law, be used under paragraph 4.1.

### 5. RESPONSIBILITIES

5.1. The General Counsel of the Department of Defense is hereby authorized to issue Instructions to implement this Directive.


5.2. The Secretaries of the Military Departments:

5.2.1. Are hereby delegated the authority, consistent with this Directive and any Instructions issued under paragraph 5.1., to implement the policy of section 4. for any DoD healthcare provider performing healthcare functions under or associated with the Secretaries' respective Military Departments. The authority of the Secretary of the Army shall extend to any DoD healthcare provider performing healthcare functions under the authority of a DoD Component other than a Military Department, and also to any healthcare provider performing healthcare functions under the authority of the AFRH. The authority provided by this paragraph may be re-delegated in writing.

5.2.2. Shall establish regulations requiring healthcare providers covered by this Directive to comply with procedures established by the Department of Defense or the Department of Justice for the defense and disposition of medical malpractice cases, including prompt notice and forwarding of any claims served upon them, furnishing of information and documents requested by the Departments, and compliance with directions concerning final disposition of a claim.

6. EFFECTIVE DATE

This Directive is effective immediately.

  
Paul Wolfowitz  
Deputy Secretary of Defense