



THE ASSISTANT SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-1200

MAR 12 2013

HEALTH AFFAIRS

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND
RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND
RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE AIR FORCE (MANPOWER
AND RESERVE AFFAIRS)
COMMANDER, JOINT TASK FORCE NATIONAL CAPITAL
REGION-MEDICAL
DEPUTY DIRECTOR, TRICARE MANAGEMENT ACTIVITY

SUBJECT: Statutory Revision to Department of Defense Coverage of Abortions

- References: (a) Title 10, United States Code, Sections 1093 and 1565b
(b) Department of Defense (DoD) Directive 6495.01, "Sexual Assault Prevention and Response (SAPR) Program," January 23, 2012
(c) DoD Directive 6400.1, "Family Advocacy Program (FAP)," August 23, 2004
(d) TRICARE Policy Manual, DoD 6010.57-M, February 2008 and DoD 6010.54-M, August 2002

The purpose of this memorandum is to update Health Affairs Policy 96-030 regarding the provision of abortion services in military treatment facilities (MTFs). Title 10, United States Code (U.S.C.), Section 1093(a) (Reference (a)), was amended by Section 704 of the National Defense Authorization Act for Fiscal Year 2013 to add an exception to the restriction on the use of DoD funding of abortions "in the case in which the pregnancy is the result of an act of rape or incest." Reference (a) now permits the use of DoD facilities (in the Continental United States and Outside the Continental United States) and appropriated funds to perform abortions under the following circumstances: where the life of the mother would be endangered if the fetus were carried to term or in the case in which the pregnancy is the result of an act of rape or incest.

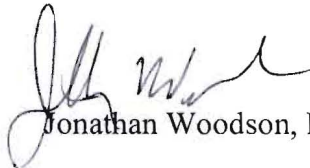
The Services are reminded to adhere to the requirements of References (b) and (c) when treating patients who are the victims of sexual assault and child abuse. MTF providers shall ensure appropriate documentation in the patient's medical record. This would include a physician certification that the procedure is medically necessary when the life of the mother would be endangered if the fetus were carried to term. In addition, in accordance with prevailing practice of other Federal health programs, appropriate documentation includes an appropriate note to indicate that based on the information available to the provider, it is the provider's good faith belief that the patient was the victim of rape or incest. Consistent with title 10, U.S.C., section 1565b(b) and DoD's SAPR Program's restricted reporting policy, sexual assault victims

shall have access to medical services without the need to report an incident to command authorities or law enforcement. Section 1565b(b) provides that under DoD regulations, a military member or dependent who is the victim of sexual assault may elect to confidentially disclose the details of the assault to a health care provider and receive medical treatment “without initiating an official investigation of the allegations.” Confidentiality of records shall be maintained in accordance with the victim’s selected reporting option and the safeguarding of Protected Health Information/Personally Identifiable Information. If there are any mandatory reporting laws, however, they will continue to apply.

Consistent with existing policy, MTF providers who, as a matter of conscience or moral principle, do not wish to perform abortions shall not be required to do so, unless it is necessary to prevent endangering the life of the mother. Abortions performed overseas are subject to the laws of the host country.

Existing processes shall be used to refer beneficiaries to the civilian sector when services are not available in a MTF. Greater detail regarding coverage of abortion services in the purchased care sector may be found in Reference (d). Additionally, coding within the direct care system shall conform to the requirements outlined in Reference (d) to support appropriate data collection and auditing. The Deputy Director of TRICARE Management Activity will revise existing communication resources available to providers and beneficiaries to ensure accurate, updated information on abortion coverage under TRICARE.

The Services are responsible for ensuring their MTF policies and procedures are updated and health care personnel are knowledgeable of this statutory revision. Service policies, procedures, and programs implementing SAPR Program medical procedures shall also be updated to ensure information regarding the availability of medical treatment and referral services is accurate.


Jonathan Woodson, M.D.

cc:
Surgeon General of the Army
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Surgeon General of the Air Force
Joint Staff Surgeon
Chief Medical Officer, TRICARE Management Activity