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SECRETARY OF THE AIR FORCE**

Air Force Instruction 51-302

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LAW

MEDICAL LAW



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This instruction implements Air Force Policy Directive 51-3, *Civil Litigation*, by setting guidelines and procedures for the Air Force Medical Law Program. It describes the functions, responsibilities, and activities of each program component. This instruction applies to the Air National Guard and the United States Air Force Reserve only when their personnel are assigned to Air Force Medical Law offices. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Form 847s from the field through the appropriate functional chain of command. This publication may not be supplemented or further implemented/extended. The authorities to waive wing/unit level requirements in this publication are identified with a Tier (“T-0, T-1, T-2, T-3”) number following the compliance statement. See Air Force Instruction 33-360, *Publications and Forms Management*, Table 1.1., for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication OPR for non-tiered compliance items. Ensure that all records created as a result of processes prescribed in this publication are maintained IAW Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of IAW Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS).

SUMMARY OF CHANGES

This instruction has been substantially revised and must be completely reviewed. It removes specific references to the Memorandum of Understanding between the Air Force Surgeon

General (AF/SG) and The Judge Advocate General (AF/JA) existing at the time of publication of the previous version of this AFI.

1. Purpose of the Medical Law Program. The Medical Law Program ensures the Air Force has a cadre of trained personnel ready to provide medical law advice and support to medical centers, hospitals and clinics, reach back to installation staff judge advocates and management of medical malpractice claims and litigation.

2. Roles and Responsibilities.

2.1. The Judge Advocate General (TJAG):

2.1.1. Establishes the Medical Law Program and manages its activities through the Air Force Legal Operations Agency, Claims and Tort Litigation Division (AFLOA/JACC).

2.1.2. Provides management and professional development opportunities for the Medical Law Consultants through the Chief, Medical Law Field Support Center.

2.1.3. Determines the locations of the Medical Law Consultant positions in consultation with the Air Force Surgeon General (AF/SG) who provides funding for the Medical Law Consultant positions.

2.1.4. Executes any necessary agreements, to include memorandum of understanding, memorandum of agreement, or other support agreements for the provision of medical legal services.

2.2. Headquarters Air Force/Professional Development Division (AF/JAX). AF/JAX coordinates with AFLOA/JACC to select qualified Medical Law Consultant applicants, subject to TJAG approval of the assignments.

2.3. AFLOA/JACC. AFLOA/JACC serves as the office of primary responsibility for the Medical Law Program through its Medical Law Field Support Center and the Medical Law Branch. AFLOA/JACC also serves as the office of primary responsibility for ensuring compliance with any requirement arising from an agreement to provide medical legal support entered into pursuant to paragraph 2.1.4 above.

2.4. Chief, Medical Law Field Support Center. The Chief, Medical Law Field Support Center is a field-grade judge advocate that supervises, oversees, manages and rates each Medical Law Consultant. In an office with more than one Medical Law Consultant, unless otherwise directed by AFLOA/JACC, the ranking Medical Law Consultant manages the office and acts as the functional supervisor for that office, but is not in the rating chain of the junior Medical Law Consultant.

2.5. Medical Law Consultants. Medical Law Consultants are stationed at United States Air Force military medical facilities and at the Office of the Surgeon General of United States Air Forces in Europe. Medical Law Consultants also ensure that other military medical facilities within their assigned regions receive medical-legal advice by providing reach-back support to the base staff judge advocate (SJA) or by providing advice to the military medical facilities in coordination with the base SJA. Each attorney selected to be a Medical Law Consultant will attend the Medical Law Consultant Course prior to assuming their duties as a Medical Law Consultant. (T-2)

2.6. Medical Law Branch. The Medical Law Branch, which resides within AFLOA/JACC, is comprised of the Branch Chief and attorneys who are subject matter experts in medical law and specialize in medical malpractice claims and litigation. These specialized attorneys, supported by branch paralegals, shall:

2.6.1. Guide and coordinate all medical claims activities. (T-3)

2.6.2. Investigate, adjudicate, and settle medical malpractice claims under AFI 51-501, Tort Claims (T-3); report all closed claims to the AF/SG (T-3); and provide assistance to the Air Force Medical Operations Agency (AFMOA/SG3OQ) for reporting to the National Practitioner Data Bank. (T-3) See paragraph 2.7.5 for all locations outside the 50 U.S. states.

2.6.3. Serve as lead Air Force counsel in the defense of all medical malpractice cases in litigation (T-3); prepare litigation reports (T-3); assist with discovery (T-3); and direct the litigation support provided by Medical Law Consultants and base legal offices. (T-3)

2.6.4. Serve as subject matter experts on all medical-legal and other health law issues confronting the AF/SG and staff. (T-3)

2.6.5. Assist military medical facilities, as needed, by serving as legal advisors in clinical adverse action hearings. (T-3) The military medical facility conducting the hearing provides funding for TDY expenses of AFLOA/JACC personnel at these hearings. (T-3)

2.7. Base legal offices. The base SJA furnishes professional legal services to the military medical facility commander or director on all matters that are outside the medical law area. Legal advice for all non-medical-legal matters will be the responsibility of the servicing base SJA. (T-2) This includes ethics issues falling under the Joint Ethics Regulation, unless otherwise directed by AF/JAA. (T-1) Base legal offices, particularly at installations where there is no Medical Law Consultant co-located at the military medical treatment facility, also serve a vital role in the Air Force's Medical Law Program. The base legal office maintains a key interface with the military medical treatment facility, ensures that medical-legal concerns are promptly raised to the regional Medical Law Consultant, and facilitates legal support to military medical facilities. At those bases with no co-located Medical Law Consultant at the military medical facility, the base SJA will designate an attorney to serve as a liaison to the military medical facility for a minimum of one year. (T-3) The liaison will:

2.7.1. Serve as an "on-the-ground" legal contact for the military medical facility. (T-3)

2.7.2. Serve as a legal representative on military medical facility committees, serve as government representative at clinical adverse action hearings, and, in coordination with the servicing Medical Law Consultant, provide medical-legal advice to the military medical facility. (T-3)

2.7.3. Provide initial legal review of all of the military medical facility's Training Affiliation Agreements with non-federal institutions and Memoranda of Understanding with federal institutions and other military medical facilities or Air Force Reserve Components pursuant to AFI 41-108, Training Affiliation Agreement Program. (T-1) The base legal office will forward the base legal review and staffing package to the regional Medical Law Consultant for review and concurrence. (T-1)

2.7.4. Provide administrative support to AFLOA/JACC staff on medical malpractice claims and litigation, including locating witnesses, obtaining documents and medical records, participating in witness interviews, providing office space for TDY personnel, and other logistical support. (T-3)

2.7.5. At all locations outside the 50 U.S. states, base legal offices investigate medical malpractice claims pursuant to AFI 51-501, Tort Claims. (T-3) Upon completion, the base legal office forwards the claim investigation to AFLOA/JACC for expert review and final action. (T-3)

JEFFREY A. ROCKWELL
Lieutenant General, USAF
The Judge Advocate General

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFMAN 33-363, *Management of Records*, 2 June 2017

AFPD 51-3, *Civil Litigation*, 21 May 1993

AFI 33-360, *Publication and Forms Management*, 1 December 2015

AFI 41-108, *Training Affiliation Agreement Program*, 22 September 2014

AFI 51-501, *Tort Claims*, 13 September 2016

Memorandum of Understanding between HQ USAF/SG and HQ USAF/JA for the Medical Law Field Support Center, 14 November 2017

Adopted Forms

AF FORM 847, *Recommendation for Change of Publication*

Abbreviations and Acronyms

AF/JAA—Headquarters Air Force/Administrative Law Division

AF/JAX—Headquarters Air Force/Professional Development Division

AF/JA—Office of The Judge Advocate General

AF/SG—Office of The Surgeon General

AFLOA—Air Force Legal Operations Agency

AFLOA/JACC—Air Force Legal Operations Agency/Claims and Tort Litigation Division

SJA—Staff Judge Advocate

TDY—Temporary Duty

TJAG—The Judge Advocate General