



THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1200

28 SEP 1999

MEMORANDUM FOR SURGEON GENERAL OF THE ARMY  
SURGEON GENERAL OF THE NAVY  
SURGEON GENERAL OF THE AIR FORCE

SUBJECT: Additional Guidance Regarding DoD Policy on Physician Licensure

This memorandum provides additional guidance for implementation of 10 U.S.C. 1094, as amended by section 734 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. The Act disallows, effective October 1, 1999, independent medical practice by any physician who does not hold an unrestricted license, unless a waiver is granted based on "unusual circumstances." Memoranda of January 29, 1999, and May 14, 1999, established DoD implementation policy, including limited waiver authority, and identified particular State licensing requirements for which a waiver may be granted by the Surgeon General concerned. This memorandum addresses additional issues that have arisen.

Failure to meet October 1, 1999 date

The Surgeons General are authorized to grant a temporary waiver of the unrestricted license requirement for any physician who has made a good faith effort, but through no fault of his or her own is unable by October 1, 1999, to convert a license in a licensure category that includes some limitation on scope of practice to a license that has no such limitation. Personal financial considerations are not a legitimate reason for granting a waiver. Such a temporary waiver may not exceed one year. Physicians granted such a temporary waiver will be allowed to continue independent medical practice during the waiver period.

Termination of license(s)

The May 14, 1999 memorandum stated that in any case in which a physician holds a restricted license in more than one state and a waiver is not authorized for at least one of the restricted licenses (even if a waiver is authorized for one of the licenses), the physician is not eligible for a waiver. The question has arisen as to whether a waiver may be granted if such a physician surrenders all licenses except for the limited scope license in a state for which a waiver may be granted. The answer is physicians should not terminate a license just to avoid the obligation of paying a fee for an unrestricted license. Some physicians may have legitimate reasons for surrendering multiple state licenses which coincidentally make them eligible for a waiver.

### Civil Service Employees, Volunteers and Personal Services Contractor Physicians

The statute and the January 29, 1999 memorandum correctly describe the new legal requirement that physicians must have an unrestricted license as applicable to all physicians practicing independently in military treatment facilities. However, the May 14, 1999 memorandum referred to military physicians and may have created some confusion. The requirement is applicable to all physicians practicing independently in military facilities, including physicians who are Civil Service employees, volunteers (who are considered to be employees for certain purposes), and personal services contractors (under DoD Instruction 6025.5, Personal Services Contracts for Health Care Providers," January 6, 1995). To the extent that any ambiguity regarding the application of the requirement to these non-military physicians results in such a physician failing to meet the requirement by October 1, 1999, the temporary waiver, discussed above, should be used to facilitate compliance.

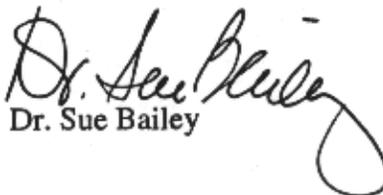
### Non-Personal Services Contractor Physicians

It should be noted that the new statutory requirement has no impact on non-personal services contractor physicians in military treatment facilities. It has been and remains DoD policy that non-personal services contractor physicians (including any physicians providing care in an MTF under a resource sharing or resource support agreement with a TRICARE contractor) are required to maintain an unrestricted license in the State in which the MTF is located.

### Reserve Component Physicians

A question has also arisen regarding the applicability of the new law to Reserve Component physicians. The statutory requirement that independent medical practice requires a license without limitation on the scope of practice is applicable to Reserve Component physicians who would engage in such practice. The steps being taken to ensure our compliance with the new statute should include Reserve Component physicians.

My point of contact for this issue is Lt. Col. Jim Williamson, who can be reached at (703) 681-1133 or [James.Williamson@tma.osd.mil](mailto:James.Williamson@tma.osd.mil).

  
Dr. Sue Bailey