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THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1200

January 29, 1999

MEMORANDUM FOR: SECRETARY OF THE ARMY
SECRETARY OF THE NAVY
SECRETARY OF THE AIR FORCE

SUBJECT: DoD Policy on Physician Licensure

Since 1988, under 10 USC 1094 (and currently DoD Directive 6025.13, "Clinical Quality Management Program in the Military Health Services System," July 20, 1995), the Department of Defense (DoD) has required all physicians to have a medical license to practice. However, some States have permitted military physicians to be licensed in special licensure categories that waive certain requirements (such as standard license fees) and include restrictions on the scope of practice (such as limited to federal facilities). Section 1094 was amended by section 734 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. 104-261. The amendment takes effect October 1, 1999. The law now provides (with the amendment shown in italics):

1. A person under the jurisdiction of the Secretary of a military department may not provide health care independently as a health care professional under this chapter unless the person has a current license to provide such care. *In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by a jurisdiction that granted the license.*
2. The Secretary of Defense may waive paragraph (1) with respect to any person in unusual circumstances. The Secretary shall prescribe by regulation the circumstances under which such a waiver may be granted.

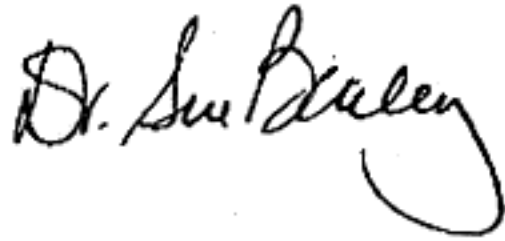
In implementing this law, DoD policy is guided by a commitment to achieve, and assure the public that we achieve, an unsurpassed standard of quality medical care. Implementation shall adhere to the following policies:

1. **Unrestricted license.** Any physician license in a licensure category that restricts the physician to practice in a federal facility or within some other confined limits does not comply with the requirement for an "unrestricted license." Unless waived, all physicians must have at least one current, unrestricted license. Physicians may hold additional licenses from States in licensure categories that have practice restrictions associated with military exemptions from certain fees or other requirements as long as the physician also

holds at least one license for which there are no limitations on the scope of practice. Effective October 1, 1999, a physician without a full-scope license may not provide health care as a physician, unless a waiver is granted under this policy.

2. **No waiver of clinical competency standards.** A licensure category that includes limitations on scope of practice shall not be considered for a waiver of the unrestricted license requirement unless it includes all the same requirements pertaining to clinical competency (e.g., education, training, tests, continuing medical education, investigation and sanction authority of the licensure board) as the full scope category and has no restrictions pertaining to clinical competency (e.g., practice under supervision). A waiver shall be considered only if the differences between the full scope license and limited scope license are solely of an administrative or financial nature.
3. **Waiver possible for administrative or financial requirement inharmonious with federal policy.** The statute permits a waiver of the unrestricted scope requirement only in "unusual circumstances." A requirement to pay the standard license fee associated with an unrestricted license is not an unusual circumstance and is not a basis for use of the waiver authority. A waiver may be considered in cases in which the administrative or financial requirements applicable to the full scope license that are not applicable to the limited scope license are substantial and seek to achieve a State purpose clearly inapplicable to military physicians based on federal policy. Examples of this would be a requirement that the physician reside in the State (federal policy calling for world-wide service), pay a substantial amount into a medical injury compensation fund (federal policy provides for medical injury compensation under federal statutes), or maintain private malpractice liability insurance (federal policy provides for malpractice liability through the U.S. treasury).
4. **Careful review process to facilitate implementation consistency.** Waiver consideration shall be based on a two-step process. First, the Assistant Secretary of Defense (Health Affairs) shall determine based on a review of a State's licensure requirements that the standards outlined in paragraphs 2 and 3 above are met and identify the particular State administrative or financial requirements that may be considered for waiver. Requests for this determination may be made by a Surgeon General. The Risk Management Committee shall consider such requests and make recommendations to the ASD(HA). Step two of the process shall be that individual physicians who do not hold a full scope license in any State but who hold a limited scope license in a State for which a waiver may be considered based on the step one determination may request a waiver from the Surgeon General of the Service involved. The request must include a justification for the waiver in the case of the individual physician. A waiver would not be granted for longer than the applicable time period of licensure; a subsequent licensure renewal would require a new waiver. The Surgeons General shall submit to the ASD(HA) an annual account of the waivers granted and the applicable justifications.

My point of contact for questions is Captain Peg Orcutt who may be reached at (703) 681-1703 or by e-mail: .

A handwritten signature in black ink that reads "Dr. Sue Bailey". The signature is written in a cursive style with a large, sweeping flourish at the end of the word "Bailey".

Dr. Sue Bailey

HA Policy 99-007

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Last update: 02/09/99