

**NOTIFICATION OF MEDICAL MALPRACTICE (TORT) CLAIMS TO INVOLVED  
STAFF MEMBERS AND NOTICE OF EMPLOYMENT STATUS TO THE OFFICE OF  
GENERAL COUNSEL**

**1. SUMMARY OF CHANGES:** Major changes to this directive are:

a. Updated the title of this directive to reflect its contents more accurately.

b. Updated responsibilities for the Under Secretary for Health, the Assistant Under Secretary for Health for Quality and Patient Safety, the Assistant Under Secretary for Health for Operations, the Office of Medical-Legal Risk Management Director, the Veterans Integrated Services Network Director and the Department of Veterans Affairs (VA) medical facility Director in paragraph 2.

c. Added a contractor notification letter template in Appendix E and updated the template notification letters in Appendices A through E to include more specific and standardized language. These letters must be used as written notice of a filed administrative tort claim alleging medical malpractice.

**2. RELATED ISSUES:** VHA Directive 1093, Delegation of Authority to Process Tort Claims, dated May 21, 2020; VHA Handbook 1100.17, National Practitioner Data Bank (NPDB) Reports, dated December 28, 2009; VHA Directive 1100.20, Credentialing of Health Care Providers, dated September 15, 2021.

**3. POLICY OWNER:** The Office of Quality and Patient Safety, Office of Quality Management, Office of Medical-Legal Risk Management (17QM7) is responsible for the contents of this directive. Questions may be addressed to [VHA17QM7MedicalLegalRiskMgmtAction@va.gov](mailto:VHA17QM7MedicalLegalRiskMgmtAction@va.gov).

**4. RESCISSIONS:** VHA Directive 1083(2), Notification of Medical Malpractice (Tort) Claims to Involved Practitioners, dated June 14, 2017, is rescinded.

**5. RECERTIFICATION:** This Veterans Health Administration (VHA) directive is scheduled for recertification on or before the last working day of February 2028. This VHA directive will continue to serve as VHA policy until it is recertified or rescinded.

**6. IMPLEMENTATION SCHEDULE:** This directive is effective upon publication.

February 9, 2023

VHA DIRECTIVE 1083

**BY DIRECTION OF THE OFFICE OF  
THE UNDER SECRETARY FOR HEALTH:**

/s/ Gerard R. Cox, MD, MHA  
Assistant Under Secretary for Health  
for Quality and Patient Safety

**NOTE:** *All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.*

**DISTRIBUTION:** Emailed to the VHA Publications Distribution List on February 10, 2023.

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**NOTIFICATION OF MEDICAL MALPRACTICE (TORT) CLAIMS TO INVOLVED  
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GENERAL COUNSEL**

## 1. POLICY

It is Veterans Health Administration (VHA) policy that each Department of Veterans Affairs (VA) medical facility Director must provide written notification of a claim for medical malpractice to all staff members, including contractors and Health Professions Trainees (HPTs), who are identified by VA medical facility leadership based on a filed tort claim as involved in the episode of care on which the claim is based. It is also VHA policy to ensure claimants are informed of the employment status of any staff member listed on the tort claim form, Standard Form (SF) 95 "Claim for Damage, Injury or Death". **NOTE:** *This directive ensures compliance with statutory requirements of notice to VHA staff members whose care is the subject of a claim for alleged medical malpractice and to the Office of General Counsel (OGC) Torts Law Group (TLG). This directive does not discuss the disclosure of adverse events to patients or their families; that information is found in VHA Directive 1004.08, Disclosure of Adverse Events to Patients, dated October 31, 2018. This directive also does not discuss either the tort claim post-payment review process that is administered by the VHA Office of Medical-Legal Risk Management (MLRM) or the National Practitioner Data Bank (NPDB) reporting required following an adverse clinical privileges action against a physician or dentist (see VHA Handbook 1100.17, National Practitioner Data Bank (NPDB) Reports, dated December 28, 2009).* **AUTHORITY:** P.L. 116-315, § 7010; 38 U.S.C. § 7301(b).

## 2. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for ensuring overall compliance with this directive.

b. **Assistant Under Secretary for Health for Quality and Patient Safety.** The Assistant Under Secretary for Health for Quality and Patient Safety is responsible for:

(1) Supporting the Office of Quality and Patient Safety (QPS) with implementation and oversight of this directive.

(2) Ensuring the Executive Director, Office of Quality Management (QM) has sufficient resources to fulfill responsibilities under this directive.

c. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

(1) Communicating the contents of this directive to Veterans Integrated Services Networks (VISNs).

(2) Assisting VISN Directors to resolve implementation and compliance challenges in all VA medical facilities within that VISN.

(3) Providing oversight of VISNs to ensure compliance with this directive and its effectiveness.

d. **Executive Director, Office of Quality Management.** The Executive Director, Office of QM is responsible for:

(1) Supporting the Office of QM with implementation and oversight of this directive.

(2) Overseeing the Office of MLRM to ensure compliance with responsibilities under this directive.

(3) Ensuring the Office of MLRM has sufficient resources, such as existing contracts and adequate personnel, to fulfill responsibilities under this directive.

e. **Director, Office of Medical-Legal Risk Management.** The Director, Office of MLRM, is responsible for:

(1) Providing oversight for VISN and VA medical facility compliance with this directive by reviewing quarterly VISN data submissions pertaining to VA medical facility tort claims and ensuring corrective action is taken when non-compliance is identified by a tort claim data submission. **NOTE:** *Policy pertaining to NPDB-related data submissions can be found in VHA Handbook 1100.17.*

(2) Coordinating with OGC, VISN and VA medical facility clinical leaders on the management of the provider notification requirements and notice of employment status to OGC. **NOTE:** *The notification letter templates in Appendices A – E must be used as written notice of a filed administrative tort claim alleging medical malpractice.*

(3) Communicating changes in Federal Tort Claims Act (FTCA) standards, regulations and process requirements to VISN Directors for dissemination to VA medical facilities.

f. **Veterans Integrated Services Network Director.** The VISN Director is responsible for:

(1) Ensuring that all VA medical facilities within the VISN comply with this directive and informing leadership when barriers to compliance are identified.

(2) Ensuring continual compliance with FTCA regulations, process requirements and accreditation process requirements.

(3) Ensuring the VISN Chief Human Resources Officer is in compliance with this directive and appropriate corrective action is taken if non-compliance is identified.

(4) Collaborating with the Director, Office of MLRM, to disseminate information to VA medical facilities about changes in FTCA standards, regulations and process requirements regarding the notification of tort claims.

(5) Compiling data submissions received from VA medical facility Directors within the VISN regarding VA medical facility tort claims and submitting a quarterly report to the Director, Office of MLRM, and ensuring corrective actions are taken when tort claim data submission is non-compliant.

g. **Veterans Integrated Services Network Chief Human Resources Officer.** The VISN Chief Human Resources Officer is responsible for providing written notice to the VA medical facility Director of the employment status of each individual listed on the tort claim (including any non-VA employee, e.g., contractor or other individuals not employed by VA) on the date(s) of the alleged incident. This notice must be provided within 20 calendar days from the date OGC TLG notifies the VA medical facility Director that a claim for medical malpractice has been filed under the FTCA.

h. **VA Medical Facility Director.** The VA medical facility Director is responsible for:

(1) Ensuring overall VA medical facility compliance with this directive and appropriate corrective action is taken if non-compliance is identified.

(2) Ensuring that every staff member, including licensed independent practitioners, licensed professional staff members (e.g., nurses, pharmacists and HPTs), ancillary/unlicensed providers and staff members (e.g., surgical technicians and nursing assistants), contractors, and VA health care providers in a supervisory role, who is identifiable by VA medical facility leadership based on a filed tort claim is given written notice when a claim for medical malpractice is filed that is based on care provided or supervised by the staff members. This notice must be provided within 30 calendar days from the date OGC TLG notifies the VA medical facility Director that a claim for medical malpractice has been filed under FTCA, 28 U.S.C. §§ 1346(b), 2671-2680. See Appendices A, B, D and E for notification letter templates. **NOTE:** *The notification letter in Appendices A, B, D and E must be used as written notice of a filed administrative tort claim alleging medical malpractice.*

(3) Ensuring that HPTs under the supervision of a VA health care provider who is identifiable by VA medical facility leadership based on a filed tort claim are given written notice when a claim for medical malpractice has been filed that is based on care provided by the trainee. This notice must be provided within 30 calendar days from the date OGC TLG notifies the VA medical facility Director that a claim for medical malpractice has been filed under the FTCA. See Appendix C for the notification letter template for HPTs. **NOTE:** *The notification letter in Appendix C must be used as written notice of a filed administrative tort claim alleging medical malpractice.*

(4) Providing written notice to the assigned OGC TLG investigator of the employment status of each individual listed on the tort claim (including any non-VA employee, e.g., contractor or other individuals not employed by VA) on the date(s) of the alleged incident. This notice must be provided within 30 calendar days from the date OGC TLG notifies the VA medical facility Director that a claim for medical malpractice has been filed under the FTCA.

(5) Ensuring the appropriate standardized information statement, provided in Appendices A – E, is used when providing written notice of medical malpractice, supplemented with the information provided by OGC TLG regarding:

(a) Claimant's name and city and state of address, as provided on the SF 95, Claim for Damage, Injury, or Death.

(b) Date(s) the incident giving rise to the claim occurred.

(c) The incident described in the claim.

(d) Asserted basis of medical malpractice liability.

(e) Name, telephone number and email address of the OGC TLG investigator assigned to process the claim with encouragement to contact the investigator.

(6) Providing an electronic copy of the notice to the appropriately assigned OGC TLG investigator at the time the notice of the tort claim is given to the involved VA licensed independent practitioners, licensed professional staff members (e.g., nurses, pharmacists, contractors or HPTs), ancillary/unlicensed providers or staff members (e.g., surgical technicians and nursing assistants). A copy of the notice must be electronically forwarded to the appropriate assigned OGC TLG investigator at the time the notice originates to the licensed independent practitioners, licensed professional staff members (e.g., nurses, pharmacists, contractors and HPTs), ancillary/unlicensed providers or staff members (e.g., surgical technicians or nursing assistants).

(7) Providing updates to involved staff members as information becomes available on the status of claim processing. **NOTE:** *Examples of claim status changes include notice of claim denial by OGC TLG, claimant request for reconsideration by OGC TLG and the outcome of the reconsideration request, claimant files lawsuit in Federal court or payment of money damages by the Government necessitating case review by the Office of MLRM.*

(8) Ensuring communication updates are provided even if the staff member leaves VA employment or completes their health profession training program (e.g., resident or intern).

(9) Ensuring the VA medical facility obtains up-to-date contact information (e.g., home address and email address), for involved staff members.

(10) Collecting data on filed tort claims to be submitted quarterly to the VISN Director.

i. **VA Medical Facility Employees.** VA medical facility employees, including part-time and full-time employees, upon receipt of notification, are responsible for:

(1) Providing statements, testimony or medical opinions as accurately as memory permits to authorized VA representatives through interviews or formal depositions.

**NOTE:** Authorized VA representatives include OGC and approved representatives from other Government agencies (e.g., Department of Justice and United States Attorney's Offices).

(2) Cooperating with a medical malpractice investigation by furnishing information and providing authorized VA representatives with all relevant information. **NOTE:** This also applies to full-time VA HPTs and part-time HPTs while on rotation at a VA medical facility, as well as medical students.

(3) Obtaining approval from the assigned authorized VA representative before meeting with the claimant or a claimant's representative to discuss the assigned claim or lawsuit.

### 3. TRAINING

There are no formal training requirements associated with this directive.

### 4. RECORDS MANAGEMENT

All records regardless of format (e.g., paper, electronic, electronic systems) created by this directive must be managed as required by the National Archives and Records Administration (NARA) approved records schedules found in VHA Records Control Schedule 10-1. Questions regarding any aspect of records management should be addressed to the appropriate Records Officer.

### 5. BACKGROUND

a. VA health care providers must be aware of medical malpractice tort claims related to their practice because of the possibility of post-payment reporting to NPDB. VHA must report certain malpractice payments to NPDB and appropriate state licensing boards. These reports are required by the Health Care Quality Improvement Act of 1986 (42 U.S.C. §§ 11101-11152) which established NPDB and a Memorandum of Understanding between VA and the United States Department of Health and Human Services. VHA's reporting requirements are outlined in VHA Handbook 1100.17 and 38 C.F.R. Part 46 and apply to all licensed VA health care providers involved in patient care as outlined by NPDB's occupation and field of licensure codes. **NOTE:** NPDB's occupation/field of licensure codes can be accessed at: <https://www.npdb.hrsa.gov/resources/FOLUpdates.jsp>.

b. Federal law mandates that claimants be notified of the "employment status of any individual listed" on a tort claim. **NOTE:** See P.L. 116-315, § 7010.

### 6. DEFINITIONS

a. **Claimant.** For the purpose of this directive, a claimant is someone who asserts a claim.

b. **Episode of Care.** Episode of care means the care provided by a health care



facility or provider for a specific medical problem or condition or specific illness during a set time period.

c. **Medical Malpractice.** A claim of medical malpractice is a written claim or demand for payment based on an act or omission of a physician, dentist or other health care practitioner in furnishing (or failing to furnish) health care services and includes the filing of a complaint or administrative tort claim under FTCA.

d. **Tort.** Tort means a wrongful act, including medical malpractice, personal injury or property damage, for which relief may be obtained in the form of damages.

e. **Tort Claim.** For purposes of this directive, tort claim refers to medical malpractice torts only. A tort claim is an administrative claim filed by a patient, or on behalf of a patient, alleging medical malpractice by a staff member or medical entity.

## 7. REFERENCES

a. P.L. 116-315, § 7010.

b. 28 U.S.C. §§ 1346(b), 2671-2680.

c. 38 U.S.C. §§ 515, 7301(b), 7316.

d. 42 U.S.C. §§ 11101-11152.

e. 38 C.F.R. Part 46. Policy Regarding Participation in the National Practitioner Data Bank.

f. VHA Directive 1004.08, Disclosure of Adverse Events to Patients, dated October 31, 2018.

g. VHA Handbook 1100.17, National Practitioner Data Bank Reports, dated December 28, 2009.

h. Memorandum of Understanding between the Secretary of Veterans Affairs and the Secretary, Health and Human Services, effective October 1, 1990.

i. United States Department of Health and Human Services, National Practitioner Data Bank Field of Licensure Updates and Report Input Changes, available at: <https://www.npdb.hrsa.gov/resources/FOLUpdates.jsp>.

j. United States General Services Administration, Standard Form 95, Claim for Damage, Injury, or Death, available at: <https://www.gsa.gov/forms-library/claim-damage-injury-or-death>.

k. VHA Office of Quality and Patient Safety, Medical-Legal Risk Management Frequently Asked Questions, available at: <https://vaww.qps.med.va.gov/divisions/qm/mlrm/mlrmFAQs.aspx>. **NOTE:** This site is

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*internal to VA and is not available to the public.*

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APPENDIX A

## LICENSED INDEPENDENT PROVIDER NOTIFICATION LETTER TEMPLATE

Department of Veterans Affairs Memorandum

Date:

From: Risk Manager/Tort Claim Coordinator

Subj: Licensed Independent Practitioner Notification of Filing of Claim for Damage, Injury or Death (Tort Claim)

To: (Licensed Independent Practitioner Name)

Thru: Chief of Staff (or Associate Director for Patient Care Services, as appropriate)

a. The purpose of this memorandum is to advise you that an administrative tort claim has been filed by (claimant's name), (City and State), regarding treatment at the (Name) Department of Veterans Affairs (VA) Medical Center. The alleged negligence was that (brief description – e.g., “VA providers misdiagnosed cancer and subjected them to unnecessary chemotherapy and radiation therapy when they did not have cancer, leading to pain and suffering.”). Care referred to in the tort claim was provided to the patient on or about (date).

b. During clinical encounters, or when contacted at other times, you should not discuss the clinical events that are the subject of this tort claim with the patient (this includes discussions with a family member or legal representative).

c. When a claim for medical malpractice is filed with respect to the care provided by a VA health care provider, a complete review of the patient's medical record and case information is conducted. Based on that review, you were identified as a provider involved or one who participated in this patient's care during the period stated in the claim. As a VA health care provider who is appropriately credentialed and privileged with the (Name) VA Medical Center, unless you are a contractor, you are immune from personal liability under Federal Tort Claims Act (FTCA) for the acts and omissions that allegedly occurred while you were working within the scope of your employment. Therefore, to the extent that you were acting within the scope of your employment, the tort claim is being brought against the United States Government and not against you individually.

d. The Torts Law Group (TLG) of the Office of General Counsel (OGC) is conducting an administrative review of the claim and may contact you for information. You are encouraged to contact the assigned TLG investigator regarding your involvement in the care provided. It is the goal of TLG to complete its investigation and reach a decision within six months from receipt of the claim. Upon completion of the investigation, TLG may determine to deny the claim, settle the claim or refer the claim to the Department of Justice for approval of a higher settlement amount. Some claims may proceed to litigation without final action by OGC or after a denial.

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e. Information about the Federal tort claims process can be found on the VHA Office of Quality and Patient Safety Office of Medical-Legal Risk Management Frequently Asked Questions intranet link at

<https://vaww.qps.med.va.gov/divisions/qm/mlrm/mlrmFAQs.aspx>. **NOTE:** *This site is internal to VA and is not available to the public.* If at any time you have additional questions regarding the claim, the status or any of the procedures outlined above, please feel free to email me at XXX or contact me at extension XXX or (Name), OGC TLG investigator at (email) or (telephone number).

Signature

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APPENDIX B

## LICENSED PROVIDER NOTIFICATION LETTER TEMPLATE

Department of Veterans Affairs Memorandum

Date:

From: Risk Manager/Tort Claim Coordinator

Subj: Licensed VA Health Care Provider (excluding Licensed Independent Practitioners (LIPs)) Notification of Filing of Claim for Damage, Injury or Death (Tort Claim)

To:(Licensed VA Health Care Provider Name)

Thru: Chief of Staff (or Associate Director for Patient Care Services, as appropriate)

a. The purpose of this memorandum is to advise you that an administrative tort claim has been filed by (claimant's name), (City and State), regarding treatment at the (Name) Department of Veterans Affairs (VA) Medical Center. The alleged negligence was that (brief description – e.g., “VA nurse provider administered incorrect dose of medication leading to a severe adverse reaction as well as pain and suffering.”). Care referred to in the tort claim was provided to the patient on or about (date).

b. During clinical encounters, or when contacted at other times, you should not discuss the clinical events that are the subject of this tort claim with the patient (this includes discussions with a family member or legal representative).

c. When a claim for medical malpractice is filed with respect to the care provided by a VA health care provider, a complete review of the patient's medical record and case information is conducted. Based on that review, you were identified as a licensed VA health care provider involved or one who participated in this patient's care during the period stated in the claim. As a licensed VA health care provider with the (Name) VA Medical Center, unless you are a contractor, you are immune from personal liability under Federal Tort Claims Act (FTCA) for the acts and omissions that allegedly occurred while you were working within the scope of your employment. Therefore, to the extent that you were acting within the scope of your employment, the tort claim is being brought against the United States Government and not against you individually.

d. The Torts Law Group (TLG) of the Office of General Counsel (OGC) is conducting an administrative review of the claim and may contact you for information. You are encouraged to contact the assigned TLG investigator regarding your involvement in the care provided. It is the goal of TLG to complete its investigation and reach a decision within six months from receipt of the claim. Upon completion of the investigation, TLG may choose to deny the claim, settle the claim or refer the claim to the Department of Justice for approval of a higher settlement amount. Some claims may proceed to litigation without final action by OGC or after a denial.

e. Information about the Federal tort claims process can be found on the VHA Office of Quality and Patient Safety, Office of Medical-Legal Risk Management Frequently Asked Questions intranet link at

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<https://vaww.qps.med.va.gov/divisions/qm/mlrm/mlrmFAQs.aspx>. **NOTE:** *This site is internal to VA and is not available to the public.* If at any time you have additional questions regarding the claim, the status or any of the procedures outlined above, please feel free to email me at XXX or contact me at extension (number) XXX or (Name), OGC TLG investigator at (email) or (telephone number).

Signature

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## HEALTH PROFESSIONS TRAINEE NOTIFICATION LETTER TEMPLATE

Department of Veterans Affairs Memorandum

Date:

From: Risk Manager/Tort Claim Coordinator

Subj: Notification of Filing of Claim for Damage, Injury or Death (Tort Claim)

To: (Health Professions Trainee Name)

Thru: Chief of Staff (or Associate Director for Patient Care Services, as appropriate)

a. The purpose of this memorandum is to advise you that an administrative tort claim has been filed by (claimant's name), (City and State), regarding treatment at the (Name) Department of Veterans Affairs (VA) Medical Center. The alleged negligence was that (brief description – e.g., “VA providers misdiagnosed cancer and subjected them to unnecessary chemotherapy and radiation therapy when they did not have cancer, leading to pain and suffering.”). Care referred to in the tort claim was provided to the patient on or about (date).

b. During clinical encounters, or when contacted at other times, you should not discuss the clinical events that are the subject of this tort claim with the patient (this includes discussions with a family member or legal representative).

c. When a claim for medical malpractice is filed with respect to the care provided by a VA health care provider, a complete review of the patient's medical record and case information is conducted. Based on that review, you were identified as a VA health professions trainee who was involved with or one who participated in this patient's care during the period stated in the claim. As a trainee under the supervision of a licensed independent provider (attending staff practitioner) who was appropriately credentialed and privileged with the (Name) VA Medical Center, you and the attending staff practitioner are immune from personal liability under Federal Tort Claims Act (FTCA) for the acts and omissions that allegedly occurred while you were working within the scope of your employment. Therefore, to the extent that you were acting within the scope of your employment, the tort claim is being brought against the United States Government and not against you individually. If you are a contractor, please notify your Risk Management of this notice.

d. The Torts Law Group (TLG) of the Office of General Counsel (OGC) is conducting an administrative review of the claim and may contact you for information. You are encouraged to contact the assigned TLG investigator regarding your involvement in the care provided. It is the goal of TLG to complete its investigation and reach a decision within six months from receipt of the claim. Upon completion of the investigation, TLG may determine to deny the claim, settle the claim or refer the claim to the Department of Justice for approval of a higher settlement amount. Some claims may proceed to litigation without final action by OGC or after a denial.

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e. Information about the Federal tort claims process can be found on the VHA Office of Quality and Patient Safety, Office of Medical-Legal Risk Management Frequently Asked Questions intranet link at

<https://vaww.qps.med.va.gov/divisions/qm/mlrm/mlrmFAQs.aspx>. **NOTE:** *This site is internal to VA and is not available to the public.* If at any time you have additional questions regarding the claim, the status, or any of the procedures outlined above, please feel free to email me at XXX or contact me at extension XXX or (Name), OGC TLG investigator at (email) or (telephone number).

Signature



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## EMPLOYEE NOTIFICATION LETTER TEMPLATE

Department of Veterans Affairs Memorandum

Date:

From: Risk Manager/Tort Claim Coordinator

Subj: Employee Notification of Filing of Claim for Damage, Injury or Death (Tort Claim)

To: (Employee Name)

Thru: Chief of Staff (or Associate Director for Patient Care Services, as appropriate)

a. The purpose of this memorandum is to advise you that an administrative tort claim has been filed by (claimant's name), (City and State), regarding treatment at the (Name) Department of Veterans Affairs (VA) Medical Center. The alleged negligence was that (brief description – e.g., “VA pharmacy technician dispensed incorrect dose of medication leading to a severe adverse reaction as well as pain and suffering.”). Care referred to in the tort claim was provided to the patient on or about (date).

b. During clinical encounters, or when contacted at other times, you should not discuss the clinical events that are the subject of this tort claim with the patient (this includes discussions with a family member or legal representative).

c. When a claim for medical malpractice is filed with respect to the care provided by a VA health care provider, a complete review of the patient's medical record and case information is conducted. Based on that review, you were identified as an employee involved or one who participated in this patient's care during the period stated in the claim. As an employee at the (Name) VA Medical Center, you are immune from personal liability under Federal Tort Claims Act (FTCA) for the acts and omissions that allegedly occurred while you were working within the scope of your employment. Therefore, to the extent that you were acting within the scope of your employment, the tort claim is being brought against the United States Government and not against you individually.

d. The Torts Law Group (TLG) of the Office of General Counsel (OGC) is conducting an administrative review of the claim and may contact you for information. You are encouraged to contact the assigned TLG investigator regarding your involvement in the care provided. It is the goal of TLG to complete its investigation and reach a decision within six months from receipt of the claim. Upon completion of the investigation, TLG may choose to deny the claim, settle the claim or refer the claim for approval of a higher settlement amount. Some claims may proceed to litigation without final action by OGC or after a denial.

e. Information about the Federal tort claims process can be found on the VHA Office of Quality and Patient Safety, Office of Medical-Legal Risk Management Frequently Asked Questions intranet link at <https://vaww.qps.med.va.gov/divisions/qm/mlrm/mlrmFAQs.aspx>. **NOTE:** This site is internal to VA and is not available to the public. If at any time you have additional

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questions regarding the claim, the status, or any of the procedures outlined above, please feel free to email me at XXX or contact me at extension XXX or (Name), OGC TLG investigator at (email) or (telephone number).

Signature

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## CONTRACTOR NOTIFICATION LETTER TEMPLATE

Department of Veterans Affairs

Memorandum

Date:

From: Risk Manager/Tort Claim Coordinator

Subj: Notification of Filing of Claim for Damage, Injury or Death (Tort Claim)

To:(Contractor Name)

Thru: Chief of Staff (or Associate Director for Patient Care Services, as appropriate)

a. The purpose of this memorandum is to advise you that an administrative tort claim has been filed by (claimant's name), (City and State), regarding treatment at the (Name) Department of Veterans Affairs (VA) Medical Center. The alleged negligence was that (brief description – e.g., "VA providers misdiagnosed cancer and subjected them to unnecessary chemotherapy and radiation therapy when they did not have cancer, leading to pain and suffering."). Care referred to in the tort claim was provided to the patient on or about (date).

b. During clinical encounters, or when contacted at other times, you should not discuss the clinical events that are the subject of this tort claim with the patient (this includes discussions with a family member or legal representative).

c. When a claim for medical malpractice is filed with respect to the care provided by a VA health care provider, a complete review of the patient's medical record and case information is conducted. Based on that review, you were identified as a VA health care provider involved or one who participated in this patient's care during the period stated in the claim. A VA health care provider who is appropriately credentialed and privileged with the (Name) VA, is immune from personal liability under the Federal Tort Claims Act (FTCA) for acts and omissions that allegedly occurred when you were working within the scope of their employment. The tort claim is brought against the United States Government and not against the individual provider. However, as a contractor, you are not covered under the FTCA and should inform your employer's risk management contact and your professional liability insurance carrier of this notification letter. If you believe this information is not correct and your employment status met FTCA coverage criteria, please notify us for further review and discussion.

d. The Torts Law Group (TLG) of the Office of General Counsel (OGC) is conducting an administrative review of the claim and may contact you for information. You are encouraged to contact the assigned TLG investigator regarding your involvement in the care provided. It is the goal of TLG to complete its investigation and reach a decision within six months from receipt of the claim. Upon completion of the investigation, TLG may determine to deny the claim, settle the claim or refer the claim to the Department of Justice for approval of a higher settlement amount. Some claims may proceed to litigation without final action by OGC or after a denial.

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e. Information about the Federal tort claims process can be found on the VHA Office of Quality and Patient Safety, Office of Medical-Legal Risk Management Frequently Asked Questions intranet link at <https://vaww.qps.med.va.gov/divisions/qm/mlrm/mlrmFAQs.aspx>. **NOTE:** *This site is internal to VA and is not available to the public.* If at any time you have additional questions regarding the claim, the status, or any of the procedures outlined above, please feel free to email me at XXX or contact me at extension XXX or (Name), OGC TLG investigator at (email) or (telephone number).

Signature