

**BY ORDER OF THE  
SECRETARY OF THE AIR FORCE**

**AIR FORCE INSTRUCTION 36-2910**

**8 OCTOBER 2015**



**Personnel**

**LINE OF DUTY (LOD) DETERMINATION,  
MEDICAL CONTINUATION (MEDCON),  
AND INCAPACITATION (INCAP) PAY**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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In collaboration with the Chief of Air Force Reserve (AF/RE) and the Director of the Air National Guard (NGB/CF), the Deputy Chief of Staff for Manpower, Personnel, and Services (AF/A1) develops personnel policy for the *Line of Duty Determination, Medical Continuation (MEDCON) and Incapacitation (INCAP) Pay* policy. This publication may be supplemented at any level: MAJCOM-Level supplements must be approved by the HSC prior to certification and approval. This instruction implements Air Force Policy Directive (AFPD) 36-29, *Military Standards* and provides guidance on Line of Duty (LOD) determinations, as well as the procedures for retaining or ordering Air Reserve Component (ARC) members on active duty for medical continuation (MEDCON) and providing ARC members Incapacitation (INCAP) Pay. It applies to all Regular Air Force (RegAF) members as well as members of the ARC—the Air Force Reserve (AFR) and the Air National Guard (ANG)—who die, incur or aggravate an illness, injury or disease while on published orders for any period of time or while on Inactive Duty for Training (IDT). Only the LOD chapters (Chapters 1, 2, 3 and 4) apply to United States Air Force Academy (USAFA) and Air Force Reserve Officer Training Corps (AFROTC) cadets who die, incur or aggravate an illness, injury or disease while performing military duty or training. This publication requires the collection and/or maintenance of information protected by the Privacy Act of 1974 authorized by 10 U.S.C. § 8013 and Executive Order 9397, as amended. You must show or give a copy of the Privacy Act statement before collecting personal information. System of Records Notice (SORN) F036 AF PC C, *Military Personnel Records*

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## **SUMMARY OF CHANGES**

This instruction has been substantially revised and must be completely reviewed. Revisions include the following: Chapter 1 outlines the AFI's major program elements, introduces MEDCON and INCAP Pay entitlements, reduces the number of LOD determinations from four to three, and clarifies LOD determination evidentiary standards and the "Eight Year Rule." Chapter 2 outlines new LOD determination workflow and mandates new processing timelines. Chapter 3 establishes LOD processing guidelines for MEDCON and INCAP Pay associated with sexual assault cases. Chapter 5 incorporates the Assistant Secretary of the Air Force for Manpower and Reserve Affairs (SAF/MR) memorandum, dated 15 August 2012, directing implementation of MEDCON policy and creation of the Air Reserve Component Case Management Division (ARC CMD) to provide medical case management for wounded, ill and injured ARC members. Chapter 6 clarifies INCAP Pay eligibility, outlines new workflow guidelines and mandates new processing timeline requirements. The AFI includes tiering IAW AFI 33-360 to reduce compliance burden on field units and provide flexibility with local inspections.

AF Form 348, *Line of Duty Determination*, and AF Form 1971, *Application for Incapacitation Pay*, have been substantially revised; previous editions are obsolete. A new AF Form 348-R,

*Line of Duty Determination for Restricted Report of Sexual Assault*, has been prescribed to be used when processing LOD determinations for restricted reports of sexual assault. All forms and instructions may be obtained from the Air Force e-Publishing website (<http://www.e-publishing.af.mil>). MEDCON specific forms and samples may be obtained from the myPers website ([https://gum-crm.csd.disa.mil/app/answers/detail/a\\_id/22982](https://gum-crm.csd.disa.mil/app/answers/detail/a_id/22982)). INCAP Pay specific forms and samples may be obtained from the myPers website ([https://mypers.af.mil/app/answers/detail/a\\_id/18162](https://mypers.af.mil/app/answers/detail/a_id/18162)).

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## Chapter 1

### PROGRAM ELEMENTS

**1.1. The Line of Duty (LOD) Determination and Its Objective.** A member who dies or sustains an illness, injury or disease prior to service, while absent without authority, or due to his or her misconduct is not eligible for certain government benefits. An LOD determination is a finding made after an investigation into the circumstances of a member's illness, injury, disease or death. The finding determines: (1) whether or not the illness, injury or disease existed prior to service (EPTS) and if an EPTS condition was aggravated by military service; (2) whether or not the illness, injury, disease or death occurred while the member was absent without authority and (3) whether or not the illness, injury, disease or death was due to the member's misconduct. An LOD determination protects the interests of both the member and the United States Government.

**1.2. Personnel Who May Be Subject to LOD Determinations.**

1.2.1. RegAF members.

1.2.2. ARC members who die, incur or aggravate an illness, injury or disease while:

1.2.2.1. On published orders for any period of time, or while on inactive duty; or

1.2.2.2. Traveling directly to or from the place the member performs active duty or training or while staying overnight immediately before and between consecutive IDT periods.

1.2.3. USAFA cadets.

1.2.4. AFROTC cadets who die, incur or aggravate an illness, injury, or disease while performing military duty or training. **Note:** AFROTC cadets who die, incur or aggravate an injury, illness or disease during official military duty or training, or while traveling to or from the location of official military training, may be entitled to disability benefits or compensation from the Department of Labor. See the Federal Employees Compensation Act or 5 U.S.C. § 8140, *Members of the Reserve Officers' Training Corps*, for information related to disability benefits external to the Air Force or Department of Defense.

**1.3. Use of the LOD Determination.**

1.3.1. **Disability Retirement and Severance Pay.** A member is not entitled to disability separation or retirement if the disability was incurred during a period of unauthorized absence or resulted from the member's misconduct (10 U.S.C. § 1201, *Regulars and Members on Active Duty for More Than 30 Days: Retirement*; § 1202, *Regulars and Members on Active Duty for More Than 30 Days: Temporary Disability Retired List*; § 1203, *Regulars and Members on Active Duty for More Than 30 Days: Separation*; § 1204, *Members on Active Duty for 30 Days or Less or on Inactive-Duty Training: Retirement*; § 1206, *Members on Active Duty for 30 Days or Less or on Inactive-Duty Training: Separation* and § 1207, *Disability from Intentional Misconduct or Willful Neglect: Separation*).

1.3.2. **Forfeiture of Pay.** A member may not be entitled to pay if he or she was absent from regular duties for a continuous period of more than 24 hours because of disease that was directly caused by and immediately follows his or her intemperate use of drugs or alcohol (37 U.S.C. §

802, *Forfeiture of Pay During Absence from Duty Due to Disease from Intemperate Use of Alcohol or Drugs*).

1.3.3. **Extension of Enlistment.** An enlisted member's period of enlistment may be extended to include that period of time he or she was unable to perform duties because of his or her intemperate use of drugs or alcohol (10 U.S.C. § 972, *Members: Effect of Time Lost*).

1.3.4. **Veteran Benefits.** The Department of Veterans Affairs (VA) may use a member's official military records, including any LOD determinations, when determining veteran benefits (38 U.S.C. § 1110, *Wartime Disability Compensation—Basic Entitlement*; § 1131, *Peacetime Disability Compensation—Basic Entitlement*).

1.3.5. **Survivor Benefit Plan.** If a member dies on active duty and In the Line of Duty (ILOD), the member's surviving dependents may be eligible for benefits under the Survivor Benefit Plan (10 U.S.C. § 1448, *Application of Plan*).

1.3.6. **Basic Educational Assistance Death Benefit.** The survivors of those Airmen who were entitled to basic educational assistance and who died while on active duty or within one year after discharge or release from active duty may be entitled to death benefits. (38 U.S.C. § 3017, *Death Benefit*).

1.3.7. **Emergency Healthcare Entitlement for ARC.** Nothing in this instruction shall be construed to prevent emergency medical treatment at a medical treatment facility for an ARC member serving in a duty status as provided in DoDI 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components*. An ARC member who presents for emergency treatment and states that the emergent condition is related to an injury, illness or disease incurred or aggravated as a result of a period of duty shall be examined and provided necessary medical care in accordance with (IAW) AFI 41-210, *TRICARE Operations and Patient Administration Functions*. The circumstances surrounding the emergency medical condition will be resolved after the emergency has been stabilized.

1.3.8. **Medical Benefits for Members of the ARC.** For ARC, LOD determinations are used to establish, manage, and authorize healthcare. ARC members may be entitled to hospital benefits and medical pensions in certain circumstances (10 U.S.C. § 1074a, *Medical and Dental Care: Members on Duty Other Than Active Duty for a Period of More Than 30 Days*; 37 U.S.C. § 204, *Entitlement*).

1.3.9. **MEDCON for ARC Members.** ARC members may be entitled to MEDCON benefits in certain circumstances (DoDI 1241.2, *Reserve Component Incapacitation System Management*).

1.3.10. **INCAP Pay for ARC Members.** ARC members may be entitled to INCAP benefits in certain circumstances (DoDI 1241.2, *Reserve Component Incapacitation System Management*).

**1.4. Limits on Use of an LOD Determination.** An LOD determination shall not be used for the following purposes:

1.4.1. **Disciplinary Action.** An LOD determination shall not be used as a basis for disciplinary actions. The LOD process is separate and distinct from judicial processes and

other disciplinary or administrative actions. Disciplinary and administrative actions, if warranted, shall be taken independent of an LOD investigation.

1.4.1.1. An LOD determination does not preclude a separate disciplinary or administrative action. An LOD determination is not determinative in:

1.4.1.1.1. Guilt or innocence in a disciplinary proceeding;

1.4.1.1.2. Pecuniary liability in a Report of Survey; or

1.4.1.1.3. Any other administrative proceeding.

**1.5. Reimbursement of Medical Expenses.** An active duty member cannot be denied medical treatment based on an LOD determination. Furthermore, an LOD determination does not authorize recoupment of the cost of medical care from the member (10 U.S.C. § 1074a; 37 U.S.C. § 204).

1.5.1. For an ARC member whose condition is determined to be Not in Line of Duty (NILOD), only initial treatment for a diagnosis will be provided. Any follow up care is the responsibility of the member.

**1.6. When an LOD Determination is Required.** An LOD determination must be initiated, whether the member is hospitalized or not, when the following occurs:

1.6.1. Death of a member. An AF Form 348 must be completed in every case involving the death of a member in any duty status, to include travel to and from a duty location;

1.6.2. For RegAF, member is unable to perform military duties for more than 24 hours due to an injury;

1.6.3. Injury involving likelihood of a permanent disability;

1.6.4. Injury or disease involving the abuse of alcohol or other drugs;

1.6.5. Self-inflicted injury;

1.6.6. Injury or disease possibly incurred during a period of unauthorized absence;

1.6.7. Injury or disease possibly incurred during a course of conduct for which charges have been preferred under the Uniform Code of Military Justice (UCMJ); or

1.6.8. For ARC, in addition to the situations listed above, an LOD determination must be made when:

1.6.8.1. The member incurs or aggravates an illness, injury or disease, or receives any medical treatment while serving in any duty status, regardless of the member's ability to perform military duties;

1.6.8.2. The member dies, incurs, or aggravates an illness, injury or disease while traveling directly to or from the place at which duty is performed; or

1.6.8.3. The member dies, incurs, or aggravates an illness, injury or disease while remaining overnight immediately before and between successive periods of IDT, at or in the vicinity of the site of the IDT, if the site is outside reasonable commuting distance from the member's residence.



## 1.7. Additional Requirements.

1.7.1. An LOD determination is accomplished for a single illness, injury or disease and cannot be reused to claim subsequent benefits and entitlements after a member has been returned to duty without restrictions pertaining to the original illness, injury or disease.

1.7.1.1. If there is subsequent service aggravation of the illness, injury or disease, a new LOD determination must be accomplished.

1.7.1.1.1. For ARC, if not in a duty status, the member may obtain medical treatment for such conditions through the VA.

1.7.2. A separate LOD determination must be completed for each condition where an LOD determination is required, unless multiple conditions are linked to a single event.

1.7.3. **ARC only.** To enter into the DES for a duty-related determination, the member must have received an ILOD determination (see para. 1.10.1) for his/her potentially unfitting condition(s). See para. 1.10.2.2.2 for the "Eight Year Rule" exception.

1.7.4. **ARC only.** After release from active duty or IDT, members have 180 days to ensure any illness, injury or disease that was incurred or aggravated while in a duty status is reported for LOD determination consideration. When the member does not report his/her illness, injury or disease, the member is presumed to be able to perform military duties, does not require treatment and has no unresolved health condition rendering the member unable to meet retention or mobility standards IAW AFI 48-123, *Medical Examinations and Standards*. The only avenue for addressing previously unreported illness, injury or disease is through the VA.

1.7.5. Members should not be separated or retired while pending a final LOD determination.

1.7.6. Members with prior service in any branch or component of the Armed Forces who incur an illness, injury or disease originating during their service in that branch or component, where an LOD determination has been accomplished, do not require an additional LOD determination unless the illness, injury or disease is aggravated during performance of current military duties. Document with an Administrative LOD (see para 2.3.1) those situations where no additional LOD determination is required.

1.7.7. For members in deployed locations, an AF Form 348 will be initiated at the earliest opportunity (preferably while the member is still in the deployed location) and before release from the deployment order to enable post-deployment medical treatment or other entitlements. Ensure hardcopies of medical documentations accompany members to their home stations.

## 1.8. Presumption of LOD Status.

1.8.1. An illness, injury, disease or death sustained by a member in any duty status is presumed to be ILOD. This presumption may be rebutted when evidence shows the member was NILOD.

1.8.2. Any medical condition, incurred or aggravated during one period of active service or authorized training in any of the Armed Forces, that recurs, is aggravated or otherwise causes the member to be unfit, should be considered incurred ILOD. A new LOD determination

should be initiated if the condition recurs after an interval period of resumed fitness and is then subsequently aggravated or otherwise causes the member to be unfit.

1.8.2.1. The origin of such condition or its current state must not:

1.8.2.1.1. Be due to the member's misconduct;

1.8.2.1.2. Have progressed to unfitness as the result of intervening events when the member was not in a duty status.

**1.9. Standard of Proof for LOD Determinations.** Except where otherwise noted, the standard of evidentiary proof used in making an LOD determination is preponderance of evidence. Preponderance of evidence is defined as the greater weight of credible evidence.

1.9.1. When determining whether a preponderance of evidence exists, all available evidence must be considered, including:

1.9.1.1. Direct evidence based on actual knowledge or observation of witnesses;

1.9.1.2. Indirect evidence, such as facts or statements from which reasonable inferences, deductions and conclusions may be drawn to establish an unobserved fact, knowledge or state of mind; and

1.9.1.3. Accepted Medical Principles, based on fundamental deductions, consistent with medical facts that are so reasonable and logical as to create a virtual certainty that they are correct.

1.9.2. Preponderance of evidence is not determined by the number of witnesses or exhibits, but by all the evidence and evaluating factors such as a witness' behavior, opportunity for knowledge, information possessed, ability to recall, as well as related events and relationship to the matter being considered.

1.9.3. Where clear and unmistakable evidence is required to establish a condition is NILOD, it may be provided by accepted medical principles. Accepted medical principles may be discerned through reference to medical literature. Medical determinations relating to the etiology and onset of a disease or condition may constitute clear and unmistakable evidence when supported by the weight of medical literature.

**1.10. LOD Determinations.** One of the following three determinations will be applied to the member's illness, injury, disease or death:

1.10.1. **In Line of Duty (ILOD).** A determination of ILOD is made when the illness, injury, disease or death was not due to the member's misconduct and was incurred when the member was present for duty or absent with authority or when the illness, injury or disease was service aggravated.

1.10.1.1. For ARC members, this includes while the member was in any duty status (including direct travel status).

1.10.1.2. **Service Aggravation.** A condition is aggravated by military service when there is a permanent worsening of a pre-service medical condition, over and above natural progression, caused by trauma or the nature of military service. Natural progression is the course an illness, injury or disease would take over time, regardless of military service.

### 1.10.2. Not in Line of Duty (NILOD)-Not Due to Member's Misconduct.

1.10.2.1. Absent Without Authority. A determination of NILOD-Not Due to Member's Misconduct is made when a formal investigation determined the member's illness, injury, disease or death occurred while the member was absent without authority; or

1.10.2.2. Existed Prior to Service (EPTS)-Not Service Aggravated (NSA). A determination of NILOD-Not Due to Member's Misconduct is also made when an investigation determined, by clear and unmistakable evidence, the member's illness, injury, disease or the underlying condition causing it, existed prior to the member's entry into military service with any branch or component of the Armed Forces or between periods of such service, and was not service aggravated. EPTS-NSA conditions include chronic conditions and conditions where the incubation period rules out a finding that the condition started during any period of active duty, active duty for training (ADT) or IDT.

#### 1.10.2.2.1. Standard of Proof.

1.10.2.2.1.1. RegAF and ARC members with conditions that became unfitting while ordered to active duty of more than 30 days (other than for ADT or IDT). The standard of evidentiary proof used in making EPTS-NSA determinations is clear and unmistakable evidence. Clear and unmistakable evidence means undebatable information that the condition existed prior to military service or if increased in service was not aggravated by military service. In other words, reasonable minds could only conclude that the condition existed prior to military service from a review of all of the evidence in the record. It is a standard of evidentiary proof that is higher than a "preponderance of evidence" and "clear and convincing evidence."

1.10.2.2.1.2. ARC members with conditions that became unfitting while ordered to active duty of 30 days or less, or while on ADT or IDT. The standard of evidentiary proof used in making EPTS-NSA determinations is preponderance of evidence.

1.10.2.2.2. Eight Year Rule (10 U.S.C. § 1207a, *Members with Over Eight Years of Active Service: Eligibility for Disability Retirement for Pre-Existing Conditions*). An illness, injury or disease that is EPTS may be deemed to have occurred in a duty status for the purpose of determining disability separation or retirement by a Physical Evaluation Board if the member:

1.10.2.2.2.1. Has at least eight years of total active service;

1.10.2.2.2.2. Was on Title 10, U.S.C. active duty orders specifying a period of greater than 30 days at the time the condition became unfitting; and

1.10.2.2.2.3. Was not released from active duty within 30 days of commencing such period of active duty under 10 U.S.C. § 1206a, *Reserve Component Members Unable to Perform Duties When Ordered to Active Duty: Disability System Processing*, due to an EPTS condition not aggravated during the period of active duty.

1.10.2.2.2.4. Whether medical separation or retirement for EPTS conditions is appropriate under the Eight Year Rule is a finding made in the DES. While the

Eight Year Rule is not an LOD determination, LOD referring authorities are responsible for identifying and referring to the DES those EPTS cases to which the Eight Year Rule might apply (i.e., those with members meeting the criteria of this paragraph and having an EPTS condition that is potentially unfitting in terms of retention and/or mobility standards). This ensures that such cases are entered into the DES and appropriately assessed under the Eight Year Rule.

1.10.3. **NILOD-Due to Member's Misconduct.** This determination is made following a formal investigation that has determined the member's illness, injury, disease or death was proximately caused by the member's misconduct. If the member's illness, injury, disease or death occurred prior to service, in a non-duty status, or while the member was absent without authority and was proximately caused by the member's misconduct, the case should be finalized as NILOD-Due to Member's Misconduct.

## Chapter 2

### LOD DETERMINATION PROCESSING

**2.1. Administering the LOD Determination Process.** This chapter governs the processing of LOD determinations for all Air Force components.

2.1.1. All components will accomplish LOD determinations via an automated LOD system (when available) and will transition to a Total Force automated solution when implemented. Although modifications will be required to comply with this instruction, no component will be required to abandon a currently operational automated LOD system simply because it cannot be readily altered.

2.1.2. **Responsibilities.** Military Medical Providers, Commanders and Staff Judge Advocates (SJA) who learn of a member's illness, injury, disease or death that occurred under circumstances that may warrant an LOD determination shall take an active role in ensuring that an LOD determination is initiated. (T-1)

2.1.3. The Force Support Squadron (FSS) or LOD Program Manager (PM) that serves the immediate commander is responsible for directing the LOD determination to the required authorities, monitoring suspenses and disposing of final documentation. (T-1)

2.1.4. The LOD determination must be processed IAW processing timelines in Table 2.1. (T-1)

2.1.5. **Compliance.** Processing will be included as part of the Unit Effectiveness Inspections (UEI) managed by the LOD PM. (T-1)

2.1.5.1. **ARC only.** The LOD PM (see para. 2.2.4) will evaluate 10% of all LOD determinations on an annual basis for accuracy, timeliness and consistency, and provide a written report to commanders. (T-1)

2.1.5.2. **AFR only.** HQ AFRC/SGP will conduct quarterly quality assurance reviews on 10% of all AFR LOD determinations for accuracy, consistency and timeliness, and provide a written report to AFRC/CV.

### 2.2. General Roles and Responsibilities.

2.2.1. **Member.** When a member incurs or aggravates an injury, illness or disease while serving in a duty status, the medical condition must be promptly reported within 24 hours to the member's commander and servicing medical facility/unit. (T-1) For ARC members, when not in a duty status, the medical condition must be promptly reported (ideally within 72 hours or less) to the member's commander and servicing medical facility/unit. (T-1)

2.2.1.1. Failure to report the injury, illness or disease in a timely manner will require a written explanation to the commander and servicing medical facility/unit. (T-1)

2.2.1.2. For ARC, members who fail to provide relevant supporting medical documentation within 5 working days of notification of the injury, illness or disease to the military medical provider may be processed for non-compliance. (T-1) IAW AFI 48-123, a member with a known medical or dental condition who refuses to comply with a request for medical information or evaluation is considered medically unfit for continued

military duty and will be referred to the member's immediate commander for processing IAW AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*.

2.2.1.3. For ARC members redeploying to home station, obtain hardcopy medical documentation IAW para. 1.7.7.

2.2.2. **Military Medical Provider.** The military medical provider shall initiate and process an LOD determination within 5 working days of seeing a member and receiving supporting medical documentation under any of the circumstances outlined in para. 1.6. (T-1) The military medical provider responsible for initiating the LOD determination is the one who provided initial treatment or is assigned to the military treatment facility (MTF) closest to the civilian facility where initial treatment was provided or is the member's servicing Reserve Medical Unit (RMU) or Guard Medical Unit (GMU). Civilian medical documentation and diagnoses are reviewed by a military medical provider who provides a medical opinion on the member's illness, injury, disease, death or the underlying condition causing it. The medical provider must:

2.2.2.1. Be credentialed and privileged IAW AFI 44-119, *Medical Quality Operations* (T-1);

2.2.2.2. Either create an administrative entry in the member's medical record or complete AF Form 348 (T-1); and

2.2.2.3. Identify a specific diagnosis [International Classification of Diseases (ICD) code].(T-1) Note: ARC Medical Units will document Administrative LOD (see para 2.3.1) determinations and initiate the Informal or Formal LOD process if not completed by the initial MTF. (T-1)

2.2.3. **LOD-Medical Focal Point (LOD-MFP).** The LOD-MFP is appointed in writing by the RegAF Medical Commander or RMU/GMU Commander. (T-1) The LOD-MFP is responsible for routing the LOD determination to the next coordinator IAW Table 2.1. (T-2)

2.2.3.1. Places a copy of the LOD determination in the member's medical record and retains a copy in the LOD-MFP office. (T-1)

2.2.3.2. Briefs medical entitlements and provides a signed copy to member. (T-1)

2.2.4. **LOD PM.** The LOD PM is appointed by the Wing Commander and may be from the FSS or RMU/GMU. (T-1)

2.2.4.1. Manages and monitors LOD coordination and suspenses. (T-2)

2.2.4.2. At a minimum, provides to the Wing Commander quarterly and annual program status reports, and monthly reports on LODs exceeding suspense times. (T-2)

2.2.4.3. Provides quarterly and annual program status reports on timeliness of finalized Informal and Formal LOD determinations to ARC A1. (T-1)

2.2.4.4. Ensures all finalized LODs are distributed IAW para. 2.3.4.8.

2.2.4.5. Ensures members are not separated or retired while pending an LOD determination. (T-1)

2.2.4.6. Ensures medical treatment is not delayed because of administrative requirements. (T-1)

**2.2.5. Air Force Reserve Command Commander (AFRC/CC) and Air National Guard Readiness Center Commander (ANGRC/CC).** On a quarterly basis (when Total Force automated system is available), Headquarters AFRC/CC and ANGR/CC will report to SAF/MR the timeliness of finalized Informal and Formal LOD determinations for AFR and ANG members (T-0). The report will reflect timeliness for Informal and Formal LOD determinations and the average time required for each step in the ARC LOD determination process IAW Table 2.1.

**2.2.6. Secretary of the Air Force (SAF).** The Secretary of the Air Force, or his or her designee, may make changes to an LOD determination, after consideration by the SAF Personnel Council (Air Force Personnel Board). (T-0) (see Headquarters Air Force Mission Directive 1-24, Assistant Secretary of the Air Force (Manpower and Reserve Affairs) and SAF/MR Memorandum, *Re-delegation of Authority for Individual Personnel Actions*) While this authority is not limited to actions or cases within the DES, such consideration of LOD changes typically arises pursuant to SAF Personnel Council action or recommendation on a member's retirement or separation for physical disability. (see AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*)

**2.2.7. Disability Evaluation System (DES).** When the DES has reasonable cause to believe an LOD determination appears to be contrary to the evidence, physical disability evaluation shall be suspended for review of the LOD determination.

2.2.7.1. Return the case with a memorandum requesting review of the LOD determination and reason(s) for the request.

## **2.3. Types and Processing of LODs.**

### **2.3.1. Administrative LOD.**

2.3.1.1. When the military medical provider sees a member under any of the circumstances outlined in para. 2.3.1.2, he or she annotates the injury, illness or disease on a Standard Form 600, *Chronological Record of Medical Care*, or electronic medical record.

2.3.1.2. The medical provider makes an administrative determination that the member's condition is ILOD when he or she determines the illness, injury or disease was incurred in a duty status under the following circumstances:

2.3.1.2.1. As a hostile casualty (other than death);

2.3.1.2.2. As a passenger in a common carrier or military aircraft;

2.3.1.2.3. The injury, illness or disease clearly did not involve misconduct, abuse of drugs or alcohol or self-injurious behavior; or

2.3.1.2.4. The injury or illness is simple, such as a sprain, contusion or minor fracture, and is not likely to result in permanent disability.

2.3.1.2.5. For ARC, the medical provider may make an administrative determination to document a minor condition as ILOD if there is no likelihood of permanent disability, hospitalization or requirement for continuing medical treatment.

2.3.1.3. The Administrative LOD determination is final and no further action is required.

2.3.2. **Informal LODs.** When administrative processing is not appropriate, an Informal LOD determination is initiated on an AF Form 348. See Attachment 2 for additional LOD determination situations.

2.3.2.1. For ARC members serving in a duty status, Informal LOD determinations are required for the following circumstances:

2.3.2.1.1. When the medical condition involves a disqualifying disease process IAW AFI 48-123.

2.3.2.1.2. The member requires continuing medical care or treatment beyond the period of duty during which the condition was incurred or aggravated.

2.3.2.1.3. The member requires hospitalization. **Note:** Visits to the Emergency Room or minor outpatient procedures alone do not constitute hospitalization.

2.3.2.1.4. When the Eight Year Rule might apply. See para. 1.10.2.2.2.

2.3.2.2. **Military Medical Provider.** The military medical provider is responsible for completing the Military Medical Provider portion of AF Form 348 and forwarding it to the immediate commander. (T-1) The medical provider provides a narrative description of the member's medical condition and signs the form, but does not make an LOD determination.

2.3.2.3. The LOD-MFP facilitates forwarding of the AF Form 348 to the immediate commander and notifies the LOD PM. (T-2)

2.3.2.4. **Immediate Commander.** The immediate commander gathers available information on the circumstances of the member's illness, injury, disease or death. The commander is responsible for completing the Immediate Commander portion of AF Form 348 and forwarding it to the SJA. (T-1) **Note:** To determine the immediate commander, see Table 2.2.

2.3.2.4.1. The immediate commander determines if the member's illness, injury, disease or death: (T-1)

2.3.2.4.1.1. Occurred while the member was absent without authority (T-1);

2.3.2.4.1.2. Is due to the member's misconduct (T-1); or

2.3.2.4.1.3. EPTS and, if so, whether or not the medical condition was service aggravated (based on the military medical provider's input). (T-1)

2.3.2.4.2. As a result of the investigation, the immediate commander recommends one of the following on AF Form 348, (T-1):

2.3.2.4.2.1. ILOD;

2.3.2.4.2.2. NILOD-Not Due to Member's Misconduct (only if EPTS-NSA with no indication of misconduct); or

2.3.2.4.2.3. Formal LOD Determination.

2.3.2.5. **Staff Judge Advocate (SJA).** The SJA reviews the immediate commander's LOD determination recommendation for legal sufficiency.



2.3.2.5.1. The SJA concurs or nonconcurrs with the immediate commander's LOD determination recommendation, indicates such on AF Form 348, and forwards it to the appointing authority. (T-1)

2.3.2.6. **Appointing Authority.** The appointing authority reviews the immediate commander and SJA recommendations to determine the proper LOD determination or action to be taken. (T-1) **Note:** To determine the appointing authority, see Table 2.2.

2.3.2.6.1. If the appointing authority finds the member's illness, injury, disease or death to be ILOD, he or she indicates such on AF Form 348.

2.3.2.6.2. If the appointing authority finds the member's illness, injury, disease or death to be NILOD (only if EPTS-NSA with no indication of misconduct), he or she indicates such on AF Form 348.

2.3.2.6.3. ILOD and NILOD (EPTS-NSA with no indication of misconduct) cases are finalized and forwarded to the LOD PM for disposition.

2.3.2.6.4. If the appointing authority believes the determination should be NILOD (other than EPTS-NSA with no indication of misconduct), he or she indicates such on AF Form 348 and appoints an Investigating Officer (IO) to conduct a formal investigation of the circumstances surrounding the member's illness, injury, disease or death. This case will be processed as a Formal LOD determination (see para. 2.3.4).

2.3.2.7. **ARC LOD Determination Board.** The ARC Board is a "reviewing authority" for both Informal LOD "questionable circumstance" cases and Formal LODs. The Board consists of AFRC or NGB SG, JA and A1. In cases involving death or questionable circumstances, LOD determinations are not considered finalized until the approving authority makes a determination.

2.3.2.7.1. Questionable circumstances include, but are not limited to:

2.3.2.7.1.1. Those involving misconduct, alcohol or drugs, sexual assault, suicide attempts/gestures/ideation, self-mutilation; or

2.3.2.7.1.2. All formal investigations, reinvestigations and any questionable case the Wing Commander wishes to be reviewed.

2.3.2.7.1.3. For ANG, medical conditions involving disease processes.

2.3.2.7.2. The approving authority may return the Informal LOD to the appointing authority with direction to conduct a formal investigation or to provide additional supporting documentation.

### 2.3.3. **Interim LODs (ARC only).**

2.3.3.1. The immediate commander may issue an Interim LOD determination to establish initial care and treatment pending the final LOD determination.

2.3.3.2. Do not make an Interim LOD determination if there is clear and unmistakable evidence showing an EPTS condition or clear and convincing evidence that misconduct was the proximate cause of the illness, injury or disease.

2.3.3.3. The Interim LOD determination is comprised of the completed medical portion of AF Form 348, which must contain a description of the member's illness, injury or

disease, and the date it occurred, as well as the completed immediate commander's portion of AF Form 348, which must contain a preliminary finding of the member's military status at the time the medical condition occurred.

2.3.3.4. An Interim LOD determination is only valid for 55 days.

2.3.3.5. The LOD PM forwards a copy of the approved Interim LOD determination to the ARC medical unit for filing in the member's medical record and to ensure no disruption in the member's medical care.

2.3.3.6. The Interim LOD determination is replaced upon completion of the finalized Informal LOD determination.

2.3.4. **Formal LODs.** A Formal LOD determination is made by higher authorities based upon a thorough investigation conducted by a specially appointed IO. DD Form 261, *Report of Investigation Line of Duty and Misconduct Status*, is used to supplement AF Form 348. For ARC, all Formal LOD determinations require review by the ARC LOD Determination Board.

2.3.4.1. A Formal LOD determination is required to support a determination of NILOD, unless the condition EPTS-NSA and there is no indication of misconduct. The immediate commander may also recommend a Formal LOD determination when the member's illness, injury, disease or death occurred:

2.3.4.1.1. Under strange or doubtful circumstances; or

2.3.4.1.2. Under circumstances the commander believes should be fully investigated.

2.3.4.2. **Appointing Authority.** The appointing authority appoints an IO that is a disinterested officer in the grade of Captain, or above and senior to the member being investigated. (T-1)

2.3.4.2.1. The IO must be appointed in writing. The appointment letter shall:

2.3.4.2.1.1. Cite this instruction as authority;

2.3.4.2.1.2. State the reason for the appointment;

2.3.4.2.1.3. Designate a suspense date for submission of the report; and

2.3.4.2.1.4. Justify any deviations from the IO criteria outlined in para 2.3.4.2.

2.3.4.2.2. When an incident occurs at a location remote from the appointing authority, coordinate with the commander of the installation nearest to where the incident occurred to appoint an IO.

2.3.4.2.3. The appointing authority reviews the complete investigation file. (T-1) He or she may:

2.3.4.2.3.1. Return the file to the IO for further investigation; or

2.3.4.2.3.2. Complete DD Form 261, block 13, and if applicable, block 19.

2.3.4.2.3.3. The appointing authority forwards the file to the reviewing authority.

2.3.4.3. **Investigating Officer (IO).** The IO is responsible for examining the circumstances surrounding the member's illness, injury, disease or death. He or she must also:

2.3.4.3.1. Conduct the investigation in accordance with the guidance provided in Attachment 3, Guide for Investigating Officers (T-1);

2.3.4.3.2. Complete DD Form 261 (blocks 1-12) (T-1); and

2.3.4.3.3. Obtain a written legal review from the SJA and then forward the investigation report and all supporting attachments to the appointing authority. (T-1)

2.3.4.4. **SJA.** The SJA serves as a legal advisor to the IO. The SJA will review the IO's findings and recommendations for legal sufficiency and provide a written legal review. (T-1)

2.3.4.5. **Reviewing Authority.** The reviewing authority reviews the complete investigation file. (T-1) He or she may:

2.3.4.5.1. Return the file to the IO for further investigation; or

2.3.4.5.2. Complete DD Form 261, block 14, and if applicable, block 20.

2.3.4.5.3. The reviewing authority forwards the file to the approving authority.

2.3.4.5.3.1. If the reviewing authority is also the approving authority, note this in DD Form 261, block 15. **Note:** To determine the reviewing authority, see Table 2.2.

2.3.4.6. **Approving Authority.** The approving authority reviews the complete investigation file. (T-1) He or she may:

2.3.4.6.1. Return the file to the IO for further investigation; or

2.3.4.6.2. Approve a final determination on DD Form 261, block 15, and if applicable, block 21.

2.3.4.6.3. For RegAF, route the original report to the FSS for distribution.

2.3.4.6.4. For ARC, route the original report to AFRC/A1 or NGB/A1 for distribution to the LOD PM (maintain current process until Total Force automated system is available). **Note:** To determine the approving authority, see Table 2.2.

2.3.4.7. **ARC LOD Determination Board** (see para. 2.3.2.7).

2.3.4.8. **Distribution and Notification of LOD Determinations.** A copy of the final LOD determination is sent to the immediate commander who notifies the member or the member's next of kin of the LOD determination and provides a copy of the report (excluding legal reviews). The notification will explain how to request reinvestigation or appeal and provide an address where requests can be sent. **Note:** See Attachment 5, Sample Format of Member Notification of Not in Line of Duty Determination or Attachment 6, Sample Format of Notification of Not in Line of Duty Determination in Death Cases.

2.3.4.8.1. For RegAF, the FSS distributes the documentation as follows:

2.3.4.8.1.1. **Informal LOD.** Forward the original AF Form 348 and supporting

documents to HQ AFPC/DPSIRR, 550 C Street West Suite 21, Joint Base San Antonio-Randolph, TX 78150-4723 for inclusion in the member's personnel record.

2.3.4.8.1.2. **Formal LOD.** Forward the original AF Form 348, original DD Form 261, original IO report with supporting attachments and original legal review(s) to HQ AFPC/JA, 550 C Street West Suite 44, Joint Base San Antonio-Randolph, TX 78150-4746.

2.3.4.8.1.2.1. HQ AFPC/JA reviews Formal LOD reports on active duty members for completeness and accuracy and may:

2.3.4.8.1.2.1.1. Return the package for further investigation;

2.3.4.8.1.2.1.2. Request a reinvestigation; or

2.3.4.8.1.2.1.3. Initial and date the original DD Form 261 and forward to HQ AFPC/DPSIRR for placement in the member's personnel record.

2.3.4.8.1.3. Forward a copy of the DD Form 261 and AF Form 348 to the LOD-MFP for inclusion in the member's medical record.

2.3.4.8.2. For ARC, the LOD PM:

2.3.4.8.2.1. Forwards the original AF Form 348, original DD Form 261 and supporting documents to Air Reserve Personnel Center (ARPC) to be filed in the member's Master Personnel Record Group (MperRGP). (T-2)

2.3.4.8.2.2. Forwards a copy of the AF Form 348 and DD Form 261 to the LOD-MFP for inclusion in the member's medical record. (T-2)

## 2.4. Appeal of the Final LOD Determination.

2.4.1. **Overview.** A final LOD determination may be appealed once by the member or next of kin (if the member is deceased or incapacitated) for any reason.

2.4.2. **Requirements.** To appeal a final LOD determination, the appellant must (T-1):

2.4.2.1. Provide the appeal in writing, including the reason(s) for the appeal, to the LOD PM;

2.4.2.2. Within 30 days of receipt of the LOD determination; and

2.4.2.3. Attach the LOD report that is being appealed.

2.4.3. **Processing of Final LOD Appeal.**

2.4.3.1. For RegAF, the LOD PM forwards the appeal to the officer who exercises general court-martial jurisdiction over the member, who acts as the appellate authority.

2.4.3.2. For ARC, the LOD PM forwards the appeal to HQ AFRC/CV or ANGRC/CC, who acts as the appellate authority.

2.4.4. **Appellate Authorities.** The individual responsible for ruling on the appeal may (via memorandum):

2.4.4.1. Approve the appeal and grant a determination of ILOD; or

2.4.4.2. Disapprove the appeal.

2.4.5. **Distribution of LOD.**

2.4.5.1. The appeal is routed IAW para. 2.3.4.8.

2.4.5.2. The LOD PM notifies the appellant in writing of the result.

**Table 2.1. Processing Timelines for LOD Determinations.**

<b>Member is:</b>	<b>Agency</b>	<b>Action Completed Within</b>
Regular Air Force (see <b>Note 1</b> )	<b>LOD Determination (Informal and Formal)</b>	
	Military Medical Provider	4 Workdays
	LOD-MFP	1 Workday
	LOD PM	1 Workday
	Immediate Commander	4 Workdays
	Staff Judge Advocate	4 Workdays
	Appointing Authority	4 Workdays
	Investigating Officer	15 Workdays
	Staff Judge Advocate	4 Workdays
	Appointing Authority	4 Workdays
	Reviewing Authority	4 Workdays
	Approving Authority	4 Workdays
	Immediate Commander	4 Workdays
	LOD PM	1 Workday
Air Reserve Component (see <b>Note 2</b> )	<b>Informal LOD Determination</b>	
	ARC Member	Report injury, illness or disease within 72 hours and provide supporting medical documentation within 5 Workdays of reporting (see <b>Note 3</b> )
	LOD-MFP	5 Workdays and supporting documents submitted to RMU/GMU (see <b>Note 3</b> )
	Military Medical Provider	Initiate LOD determination by Next Unit Training Assembly (see <b>Note 3</b> )
	Immediate Commander	30 Workdays
	Wing Staff Judge Advocate	30 Workdays
	Appointing Authority	10 Workdays
	ARC LOD Determination Board and Approving Authority	15 Workdays (see <b>Note 2</b> )
	Immediate Commander	4 Workdays (see <b>Note 3</b> )
	LOD PM	1 Workday (see <b>Note 3</b> )
	<b>Formal LOD Determination (see Note 4)</b>	
Investigating Officer	30 Workdays	

Member is:	Agency	Action Completed Within
	Wing Staff Judge Advocate	30 Workdays
	Appointing Authority	10 Workdays
	ARC LOD Determination Board and Approving Authority	20 Workdays (see <b>Note 2</b> )
	Immediate Commander	4 Workdays (see <b>Note 3</b> )
	LOD PM	1 Workday (see <b>Note 3</b> )

**Notes:**

1. Total LOD processing time for RegAF is 54 workdays.
2. Once an Informal LOD is initiated, units have 70 workdays to process with an additional 15 workdays for the ARC LOD Determination Board (if required); total processing time is 85 workdays. Units have 140 workdays to process Formal LODs with an additional 20 workdays for the ARC LOD Determination Board; total processing time is 160 workdays.
3. For LOD determination notification only; not included in processing timeline.
4. If an Informal LOD results in initiation of a Formal LOD, up to 70 workdays have elapsed by the time the Appointing Authority processes the case. The Formal LOD determination processing timeline will have another 90 days (starting with the Investigating Officer through the ARC LOD Determination Board) to complete the Formal LOD determination.

**Table 2.2. Authorities for LOD Processing.**

<b>Member is:</b>	<b>Immediate Commander</b>	<b>Appointing Authority</b>	<b>Reviewing Authority</b>	<b>Approving Authority</b>
Regular Air Force (RegAF)  USAFA cadets	Commander at lowest level unit in which member is assigned	Next immediate commander in chain of command over the immediate commander (see <b>Note 1</b> )	Next immediate commander in the chain of command over the appointing authority (see <b>Note 1</b> )	Officer who exercises special court-martial jurisdiction over member (see <b>Note 1</b> )
Air National Guard (ANG) Title 10 Federal Active Duty				
Air National Guard (ANG) Title 32 Active and Inactive Duty	Commander at lowest level unit in which member is assigned	Next immediate commander in chain of command over the immediate commander	NGB LOD Determination Board (see <b>Note 3</b> )	NGB/A1
Air Force Reserve (AFR) assigned to or training with AFR units (CAT A)	AFR unit commander or senior AFR commander present (see <b>Note 2</b> )	Senior AFR commander present	AFRC LOD Determination Board (see <b>Note 3</b> )	HQ AFRC/A1
Individual Mobilization Augmentee and Participating Individual Ready Reservist (CAT B and CAT E)	Detachment PM in coordination with active duty supervisor or CC (see <b>Note 2</b> )	HQ Individual Reservist Readiness Integration Organization Commander (RIO/CC)	AFRC LOD Determination Board (see <b>Note 3</b> )	HQ AFRC/A1
AFROTC Cadets	AFROTC Detachment Commander	AFROTC Regional Commander	AFROTC Commander	AFROTC Commander

**Notes:**

1. In certain situations, the appointing authority, reviewing authority and approving authority may be one person (e.g., immediate commander reports directly to the officer exercising special court-martial jurisdiction over member).
2. The appointing authority may act as the immediate commander for AFR members.
3. The LOD Determination Board consists of AFRC or NGB SG, JA and A1.

## Chapter 3

### LOD DETERMINATION PROCESSING, MEDCON AND INCAP PAY FOR SEXUAL ASSAULT CASES

**3.1. Purpose.** This chapter outlines program elements and procedures for processing LOD determinations, MEDCON and INCAP Pay cases involving sexual assault. See AFI 36-6001, *Sexual Assault Prevention and Response (SAPR) Program*, for program management and alignment with the processes outlined in this chapter.

3.1.1. Whether the member files an unrestricted report (see para. 3.2.2.1) or restricted report (see para. 3.2.2.2), members shall have access to medical treatment and counseling for injuries and illness incurred as a result of a sexual assault when performing active service or inactive duty training. (T-0)

3.1.2. Regardless of the member's duty status at the time the sexual assault incident occurred, or at the time the member is seeking SAPR services, members can elect either the restricted or unrestricted reporting option and have access to the services of a Sexual Assault Response Coordinator (SARC) and a SAPR Victim Advocate (VA).

3.1.3. If a member elects to transition from restricted to unrestricted reporting, a new DD Form 2910, *Victim Reporting Preference Statement* and an AF Form 348 are needed to initiate an unrestricted LOD determination.

3.1.4. In addition to the above, the following applies for ARC:

3.1.4.1. Continued medical entitlements beyond initial treatment remain dependent on an LOD determination as to whether or not the sexual assault incident occurred in an active service or inactive duty training status.

3.1.4.2. If medical or mental healthcare is required beyond initial treatment and follow-up, a licensed medical or mental health provider must recommend a continued treatment plan. (T-0)

3.1.4.3. IAW DoDI 6495.02, *Sexual Assault Prevention and Response (SAPR) Program Procedures*, the modification of the LOD process for restricted reporting does not extend to pay and allowances or travel and transportation incident to the healthcare entitlement (i.e., MEDCON or INCAP Pay). However, at any time, the member may request unrestricted reporting and a subsequent unrestricted LOD determination to be completed in order to receive the full range of entitlements authorized IAW DoDI 1241.2, to include MEDCON and INCAP Pay as outlined in this AFI.

**3.2. LOD Determination Processing for Sexual Assault Cases.** A member who has incurred an injury, illness or disease as a result of sexual assault while performing active duty service or inactive duty training must have his or her LOD processed IAW DoDI 6495.02. The LOD determination process will vary depending on whether the member elects unrestricted or restricted reporting (see para. 3.2.2).

3.2.1. Roles and Responsibilities for LOD Determination under Restricted Reporting.

3.2.1.1. **Wing SARC.**



- 3.2.1.1.1. Determines if the member has elected restricted or unrestricted reporting (DD Form 2910). (T-1) Completing a DD Form 2910 does not validate the member's LOD determination or establish eligibility for an ILOD determination.
- 3.2.1.1.2. Briefs designated individuals (SAPR VA or healthcare personnel) on restricted reporting policies, exceptions to restricted reporting and the limitations of disclosure of confidential communications. (T-1) Note: The SARC and the designated individuals may consult with their servicing legal office for assistance, in the same manner as other recipients of privileged information, exercising due care to protect confidential communications by disclosing only non-identifying information. Unauthorized or improper disclosure of restricted reporting information may result in disciplinary action pursuant to the UCMJ or other adverse personnel or administrative actions.
- 3.2.1.1.3. May provide documentation to the designated official to substantiate the victim's duty status as well as the filing of the restricted report (see Table 3.2).
- 3.2.1.1.4. Serves as a liaison between the member and higher headquarters SARC(s). (T-1)
- 3.2.1.1.5. Ensures an LOD determination is initiated and processed IAW para. 3.2.2.2. and Table 3.2. (T-1)
- 3.2.1.1.5.1. AFR. The Wing SARC will complete and sign AF Form 348-R, then forward it to AFRC/A1. (T-1)
- 3.2.1.1.5.1.1. After the Wing SARC receives the finalized AF Form 348-R from AFRC/A1, the Wing SARC will submit it to the Reserve and Service Member Support Office (R&SMSO), formerly Military Medical Support Office (MMSO), along with a request for healthcare preauthorization. (T-1)
- 3.2.1.1.5.2. ANG. The Wing SARC will complete and sign AF Form 348-R, then forward it to the State Joint Force Headquarters (JFHQ) SARC. (T-1)
- 3.2.1.1.5.2.1. After the Wing SARC receives the finalized AF Form 348-R from the JFHQ SARC, the Wing SARC will submit it to the R&SMSO, along with a request for healthcare preauthorization. (T-1)
- 3.2.1.2. State Joint Force Headquarters (JFHQ) SARC (ANG Only).**
- 3.2.1.2.1. Verifies member's duty status.
- 3.2.1.2.2. Signs AF Form 348-R, then forwards it to NGB/A1 (contact ANG SAPR PM for POC) for finalization.
- 3.2.1.2.3. Forwards the finalized AF Form 348-R to the Wing SARC once received from NGB/A1 POC.
- 3.2.1.3. AFRC/A1 and NGB/A1 Restricted LOD Determination Review Authority.**
- 3.2.1.3.1. Reviews and signs AF Form 348-R.
- 3.2.1.3.2. AFR. Provides a finalized copy of the AF Form 348-R and a request for healthcare preauthorization to the Wing SARC.

3.2.1.3.3. ANG. Provides a finalized copy of the AF Form 348-R and a request for healthcare preauthorization to the State JFHQ SARC. **Note:** To determine the restricted reporting LOD review authority, see Table 3.1.

**Table 3.1. Restricted Reporting LOD Review Authority.**

<b>Component</b>	<b>Restricted LOD Determination Review Authority</b>
AFR	AFRC/A1
ANG	NGB/A1

**3.2.1.4. Reserve and Service Member Support Office (R&SMSO).**

3.2.1.4.1. The R&SMSO is responsible for the authorization of civilian medical care for AFR and ANG members who are NOT in the catchment area of an MTF. The website for the R&SMSO is [www.tricare.mil/MMSO](http://www.tricare.mil/MMSO). The required forms are available on the website.

**3.2.2. LOD Determination Processing for Unrestricted and Restricted Reporting.**

**3.2.2.1. LOD Determination for Unrestricted Reporting.** The Wing SARC has the primary responsibility for ensuring the LOD determination is initiated and processed IAW Chapter 2. (T-1) The Wing SARC initiates the LOD determination by completing the Member Information portion of AF Form 348. (T-2)

**3.2.2.2. LOD Determination for Restricted Reporting.** The primary purpose of the restricted LOD determination is to allow the member to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR VA or healthcare personnel) and receive medical treatment, including emergency care, counseling and assignment of a SARC and SAPR VA, without triggering an official investigation. Note 1: For RegAF, the AF Form 348-R is NOT required.

3.2.2.2.1. The Wing SARC has the primary responsibility for ensuring the LOD determination is initiated and processed IAW Table 3.2. (T-1) The Wing SARC initiates the AF Form 348-R by completing blocks 1-7. (T-1)

**Table 3.2. LOD Determination Processing Responsibilities for Restricted Reporting.**

<b>Process</b>	<b>AFR</b>	<b>ANG</b>	<b>Timeline</b>
Initiate LOD Determination (AF Form 348-R)	Wing SARC (See <b>Note 1</b> )	Wing SARC	Within 24 hrs of member signing DD Form 2910
Complete SARC block	Wing SARC (See <b>Note 1</b> )	Wing SARC (See <b>Note 2</b> )	
Complete JFHQ SARC block	N/A	JFHQ SARC (See <b>Note 2</b> )	1 Workday
Sign Restricted Reporting Review Authority block	AFRC/A1 Restricted Reporting Review Authority	NGB/A1 Restricted Reporting Review Authority	1 Workday
Provide a copy of the finalized AF Form 348-R to the R&SMSO with a request for healthcare preauthorization	Wing SARC	JFHQ SARC	1 Workday
<b>Notes:</b>			
1. The Wing SARC may request assistance with completing the AF Form 348-R through the Reserve SARC Liaison (typically assigned to the Reserve Medical Unit).			
2. In cases where either the JFHQ SARC or the Wing SARC is unavailable at the time, the available SARC will type the absent SARC's name in the appropriate block and write "NOT AVAILABLE" in the signature block. If the Wing SARC is unavailable the JFHQ may initiate the LOD. If the JFHQ is unavailable the Wing SARC may send the AF Form 348-R to the NGB POC. When sending documents via email between SARCs, the email must be encrypted.			

**3.3. MEDCON and INCAP Pay Processing for Sexual Assault Cases.**

3.3.1. For sexual assault cases under unrestricted reporting, as soon as practicable after the sexual assault report has been filed, the SARC and/or VA will advise the member who is an alleged victim of sexual assault that they may request continuation on active duty or request to be recalled to active duty. (T-1) The request options submitted by the member must be decided within 30 days from the date the request was made.

3.3.1.1. MEDCON and INCAP Pay eligibility criteria and processing will be IAW Chapters 5 (MEDCON) and 6 (INCAP Pay).

3.3.1.1.1. MEDCON Appeal Exception (10 U.S.C. § 12323, *Active Duty Pending Line of Duty Determination Required for Response to Sexual Assault*). If the member's request for continuation on active duty orders or recall to active duty is denied, the member may appeal the denied request to the first General Officer (O-7 and above) in the member's chain of command. The decision on the appeal must be made within 15 days from the date that the member submitted the appeal.

## Chapter 4

### REINVESTIGATION OF THE FORMAL LOD DETERMINATION

**4.1. Basis for Reinvestigation.** A Formal LOD determination may be opened for reinvestigation only if new and significant evidence indicates likelihood of error. The member's statement alone or disagreement with the determination does not constitute new evidence. The reinvestigation is limited to addressing only those issues raised by new evidence.

#### **4.2. Initiating Reinvestigation.**

4.2.1. The appointing authority or higher authority, including AFPC/JA, may direct a reinvestigation of a Formal LOD determination.

4.2.2. The member or the member's next of kin may request reinvestigation of a Formal LOD determination. To do so, the member or the member's next of kin must:

4.2.2.1. Within 45 days of receipt of a copy of the final Formal LOD determination, make a written request to the appointing authority that directed the original investigation (T-2);

4.2.2.2. Attach new and significant evidence to the member's copy of the final Formal LOD determination; and

4.2.2.3. Send the package to the LOD PM that processed the original LOD determination.

#### **4.3. Processing a Request for Reinvestigation.**

4.3.1. Only the approving authority may deny a request for reinvestigation.

4.3.2. The LOD PM reviews the package to determine if new and significant evidence was submitted. (T-2) If it was not, the LOD PM returns the package to the requestor without action and with a specific explanation why it was returned. (T-2) If it was, the LOD PM forwards the package to the appointing authority. (T-2)

4.3.3. The appointing authority may either:

4.3.3.1. Grant the request and direct reinvestigation; or

4.3.3.2. Forward the case to the reviewing authority recommending the request be denied.

4.3.4. The reviewing authority may either:

4.3.4.1. Grant the request and direct the appointing authority to reinvestigate the case; or

4.3.4.2. Forward the case to the approving authority recommending the request be denied.

4.3.5. The approving authority may either:

4.3.5.1. Grant the request and direct the appointing authority to reinvestigate the case; or

4.3.5.2. Deny the request and forward the package back to the LOD PM.

**4.4. Conducting the Reinvestigation.**

4.4.1. If reinvestigation has been directed, the appointing authority directs the IO to reinvestigate the case and complete the reinvestigation IAW the timeline specified in Table 2.1. (T-2) The appointing authority may appoint a new IO if necessary or desired.

4.4.2. The IO ensures he or she has the complete file of the original investigation and the request package with new evidence.

4.4.3. The reinvestigation is conducted under the same procedures used for the original formal LOD investigation. It is documented on a second DD Form 261. The IO prepares an addendum to the original IO summary. (T-2) The addendum should address the new evidence and its impact on the case. (T-2) The IO may recommend a new LOD determination if necessary. A legal review is required if a new LOD determination is recommended. (T-2)

4.4.4. The approving authority takes final action on the reinvestigation on the second DD Form 261. (T-2)

**4.5. Distribution of Reinvestigation.**

4.5.1. The reinvestigation is routed IAW para 2.3.4.7.

4.5.2. The LOD PM notifies the member or the member's next of kin in writing of the result. (T-2)

## Chapter 5

### MEDICAL CONTINUATION (MEDCON) FOR ARC MEMBERS

**5.1. Overview.** The purpose of MEDCON is to authorize medical and dental care for members who incur or aggravate an injury, illness or disease ILOD and to provide pay and allowances while they are being evaluated, treated for or recovering from a service-connected injury, illness or disease. ARC members may be entitled to MEDCON when they are unable to perform military duties due to an injury, illness or disease incurred or aggravated while serving in a duty status.

5.1.1. MEDCON orders shall begin when the condition renders the member unable to perform military duties (not necessarily when the injury or illness occurred, when the disease was diagnosed or when the member was released from active duty). (T-1)

5.1.2. Entitlement to MEDCON will precede Transition Assistance Management Program (TAMP) health benefits (see AFI 41-210). (T-0)

5.1.3. The ARC Case Management Division (CMD), a division aligned under the Airman and Family Care Directorate, Air Force Personnel Center (AFPC), provides comprehensive and efficient case management to expedite MEDCON orders processing and medical evaluation and treatment of members until they either regain the ability to perform military duties or enter the DES.

**5.2. Eligibility.** MEDCON eligibility requires an LOD determination and a finding by a credentialed military medical provider that the member has an unresolved health condition requiring treatment that renders the member unable to meet retention or mobility standards IAW AFI 48-123. (T-1)

5.2.1. Members who meet eligibility criteria for MEDCON must volunteer for retention or recall to duty under 10 U.S.C. § 12301(h), *Reserve Components Generally*, 10 U.S.C. § 12322, *Active Duty for Health Care*, or other appropriate authority for Reserve Personnel Appropriation (RPA) or Title 32, U.S.C. (T-0)

5.2.1.1. Members who decline or are found ineligible for MEDCON orders may be eligible for and elect INCAP Pay IAW Chapter 6.

5.2.1.2. Members eligible for MEDCON shall not be directed to accept INCAP Pay in lieu of MEDCON. (T-1)

5.2.2. Not all conditions that restrict deployment or mobility establish MEDCON eligibility. Injuries or illnesses that are expected to resolve without interventions, without restorative care or within 30 days are generally NOT eligible conditions. Cases requiring surgical interventions with recovery times of less than 30 days may be eligible.

5.2.3. A member who can perform military duties but requires medical care for a minor or chronic medical condition may be provided medical treatment for such condition through the VA or TRICARE benefits; the member does not have to be on MEDCON orders to receive medical care for an ILOD condition. Additional information can be obtained from the member's RMU/GMU, MTF TRICARE office or VA.

5.2.4. A member with multiple LOD conditions, delayed onset conditions or sequential MEDCON orders may be referred by the ARC CMD for a comprehensive health evaluation at an MTF specialty platform, or other capable government medical facility. The results from this health evaluation will form the basis for determining initial or continuing MEDCON eligibility and potential referral to the DES. (T-1)

5.2.5. A member is not entitled to benefits if the injury, illness or disease was not incurred or aggravated in an authorized duty status or was the result of the misconduct of the member.

5.2.5.1. Should the LOD Approving or Appointing Authority find the injury, illness or disease was not incurred or aggravated in an authorized duty status or was the result of the member's misconduct, action will be taken immediately to terminate healthcare and pay and allowances. (T-1) Members shall be notified through the *MEDCON Airman Responsibilities and Consent Form* (see myPers MEDCON website) that pay and allowances paid to which the member was not entitled are subject to recoupment by the base comptroller through established debt collection procedures. (T-1)

5.2.6. Unless the member is entered into the DES IAW AFI 41-210, the cumulative total number of MEDCON days may not exceed 6 months without review by the Secretary of the Air Force Manpower and Reserve Affairs (SAF/MR) for potential termination pursuant to para 5.8.2. (T-1) If the medical condition is projected to render the member unable to perform military duties for more than 6 months, but less than 1 year, a request for extension of MEDCON orders must be made through the ARC CMD and SAF/MR for disposition. (T-1)

5.2.6.1. The application for extension beyond a 6 month period should be made 30 days before its expiration date to avoid a break in orders or loss of entitlements. (T-2)

5.2.6.2. Applications to extend beyond a 6 month period or any subsequent extensions shall be facilitated by the ARC CMD and coordinated with the member's RMU/GMU and unit. (T-1)

5.2.7. Members who have been discharged/retired, or medically separated or retired as a result of a DES determination, are not eligible for MEDCON.

5.2.8. MEDCON authorization for non-emergent surgery may be considered IAW AFI 41-210 and AFI 44-102, *Medical Care Management*, if the member is unable to perform duties and the surgery is necessary to resolve the ILOD condition or if complications from the non-emergent surgery render the member unable to perform military duties.

**5.3. Roles and Responsibilities.** All parties involved with the member's care, especially the member, shall exert maximum effort to provide support and ensure the medical condition is resolved prior to expiration of the MEDCON orders. (T-2)

**5.3.1. Member.**

5.3.1.1. Members who incur or aggravate an injury, illness or disease while serving in a duty status must promptly report the medical condition, ideally within 72 hours, to the member's commander/servicing unit and servicing medical unit. (T-2)

5.3.1.2. Provide current and sufficient medical documentation and respond to official correspondence from the servicing medical unit and/or ARC CMD regarding the member's medical status. (T-2)

5.3.1.3. Members on MEDCON orders will report to their unit of assignment or alternate duty location to perform duties consistent with their diagnosis or physical limitations unless approved for leave IAW AFI 36-3003, *Military Leave Program*. (T-2)

5.3.1.4. Fully participate with medical provider prescribed treatment plans. (T-2)

### 5.3.2. Unit Commander.

5.3.2.1. Ensure members on MEDCON orders report for duty, are appropriately utilized and are available for all medical appointments. (T-2)

5.3.2.2. Member's unit commander or equivalent may designate an alternate duty location for members to perform duties consistent with their LOD diagnosis and/or AF Form 469, *Duty Limiting Condition Report*. Both the member's commander and alternate duty location commander must concur by written agreement. (T-2)

5.3.2.3. Ensure resolving the medical condition takes precedence over leave or reconstitution time. (T-2)

5.3.2.4. Approves all leave (regular, emergency or convalescent) IAW AFI 36-3003 and AFI 41-210. (T-2) All leave requests will be coordinated with the ARC CMD to ensure leave does not interfere with or delay treatment for the MEDCON condition(s). (T-2)

5.3.2.5. Leave requests for members processing through the DES will be coordinated through the Physical Evaluation Board Liaison Officer (PEBLO) IAW AFI 36-3212. (T-2)

5.3.2.6. Use the authorized automated system (once available) to request, enter and track MEDCON day usage. (T-2)

5.3.2.7. Publish approved MEDCON orders. (T-2)

### 5.3.3. Medical Unit.

5.3.3.1. The servicing medical unit will initiate LODs, track the related treatment, update the AF Form 469 as necessary (see AFI 10-203, *Duty Limiting Conditions*), send current and complete clinical documentation and MEDCON request to the ARC CMD (see para. 5.5). (T-2)

5.3.3.2. The Deployment Availability Working Group (DAWG) shall review MEDCON cases (ideally on a monthly basis) for DES consideration and collaborate with the ARC CMD on subsequent referrals to the DES. (T-2)

5.3.3.3. Ensure the member's commander or equivalent is informed of the member's MEDCON status. (T-2)

5.3.3.4. Provide MEDCON briefing and obtain a signed *Letter of Acknowledgement* (see myPers MEDCON website) from the member. (T-2)

5.3.4. **ARC CMD.** The ARC CMD serves as the central point of contact for all MEDCON related issues, medical and non-medical, to ensure standardization, efficiency and accountability.

5.3.4.1. **MEDCON Orders Requests.** The ARC CMD provides checks and balances in the processing of MEDCON orders requests.



5.3.4.1.1. Case Management Teams (CMTs) consisting of Medical Case Managers and Medical Care Coordinators facilitate MEDCON orders requests.

5.3.4.1.2. Lead Medical Case Managers and the Medical Branch Chief ensure members' individual treatment plans are appropriate and validate MEDCON orders requests.

5.3.4.1.3. The ARC CMD Division Chief is the Approval Authority for MEDCON orders and certifies the number of MEDCON days to be allocated (see para. 5.6.2).

5.3.4.1.4. The Resource Advisor transmits the approved and certified MEDCON request to the MEDCON PM (AF/A1MP) for Military Personnel Appropriations (MPA) MEDCON allocation or coordinates the allocation and issuance of requested RPA or NGB-funded/Title 32 MEDCON days with the appropriate office of primary responsibility.

**5.3.4.2. MEDCON Case Management.** Optimized and consistent clinical management IAW DoDI 6025.20, *Medical Management (MM) Programs in the Direct Care System (DCS) and Remote Areas*, AFI 44-175, *Clinical Medical Management Programs (use until rescinded)*, AFI 44-173, *Population Health and Medical Management Programs*, and appropriate follow up will facilitate the member regaining ability to perform military duties or processing through the DES. The member, his/her unit, medical unit and ARC CMD Case Management Teams all have responsibilities in this process.

**5.3.4.2.1. Case Management Teams (CMTs).** The ARC CMD shall have assigned Lead Medical Case Managers who supervise CMTs. Members on MEDCON orders will be assigned to CMTs consisting of Medical Case Managers and Medical Care Coordinators. Their responsibilities will include but are not limited to:

5.3.4.2.1.1. Interface with the member, unit, RMU, GMU, DAWG, MTF, medical providers, Wing, Command (AFRC/NGB), TRICARE, PEBLOs and others to facilitate the medical management of MEDCON cases.

5.3.4.2.1.1.1. For conditions that are latent or exhibit delayed onset, the assigned ARC CMD Medical Case Manager may coordinate an evaluation for the member at an MTF specialty platform, or other capable government medical facility.

5.3.4.2.1.2. Communicate as necessary, at least monthly, with the member and/or entities specified above and document patient encounters using the MEDCON automated system or Armed Forces Health Longitudinal Technology Application (AHLTA) IAW AFI 44-102.

5.3.4.2.1.3. Maintain visibility of LODs and MEDCON processing through an automated system (when available) to determine workload and streamline case management.

5.3.4.2.1.4. Leverage RegAF resources for AFR/ANG medical appointments and referrals. This includes services available through the R&SMSO that provide minimal care coordination to support medical/dental services for those members outside of MTF catchment areas.

5.3.4.2.1.5. ARC CMD Medical Case Manager may coordinate with the

member's DAWG and Primary Care Manager to review cases that fail to meet occupational medicine guidelines and peer-reviewed recovery timelines.

5.3.4.2.1.6. Educate members and wings on MEDCON processes and procedures.

5.3.4.3. **MEDCON Operations.** The Resource Advisor will be responsible for the streamlining of operations, centralized oversight, tracking, data collection and reporting.

5.3.4.4. **Training.**

5.3.4.4.1. Training for ARC CMD staff will include hands-on training on IT systems used for case management, tracking and accounting for members on MEDCON orders. This includes, but is not limited to, Manpower MPA Man-Day Management System (M4S), AHLTA, automated LOD systems and Aeromedical Services Information Management System (ASIMS). Those agencies responsible for applicable information technology systems/tools will make available user access and appropriate training/guidance to ARC CMD staff. ARC CMD Medical Case Managers will obtain and maintain certification pursuant to the Defense Health Agency (DHA) standards as published in the current Medical Management Guide. Specifically, Medical Case Managers shall have or obtain certification from either the American Nurses Credentialing Center or the Commission for Case Management Certification within two years of occupying a position. DHA provides additional requirements in the current Medical Management Guide for Medical Case Managers to complete relevant on-line training modules. Required training modules are specified in DoDI 6025.20 (T-0), the Medical Management Guide and AFI 44-173.

5.3.4.4.2. The ARC CMD will be responsible for training and informing all AFR and ANG wing personnel associated with the MEDCON program. At a minimum, this training will include on-site visits, webinars and/or webcasts to explain new processes, clarify pertinent Personnel Services Delivery Guides (Memorandums), Standard Operating Procedures (SOPs), AFIs, policies and instructions on how to access relevant IT systems. ARC CMD staff may also attend functional conferences to address concerns, issues and best practices for case management.

5.3.4.5. **Performance Measures.** Performance measures will be used in fact-based decision making for setting and aligning organizational directions and resource use. The ARC CMD will collect, analyze, and apply performance measures to aid with daily operations and achieve overall performance goals. The ARC CMD will report performance measures (see Attachment 7, Sample ARC CMD Performance Measures Framework) quarterly to SAF/MR, HQ AFRC, HAF/RE and NGB.

5.3.4.5.1. At a minimum, the following performance measures framework shall be used and reported:

5.3.4.5.1.1. Provide report level of detail IAW Attachment 7 by respective Component, Wing and member's status of orders.

5.3.4.5.1.2. Track MEDCON cases based on LOD quantity and type, duration of MEDCON orders, referral to the DES and processing cycle times, as well as resolution/disposition of illnesses/injuries.

5.3.4.5.1.3. Track amount of MEDCON dollars obligated by order status.

5.3.4.5.1.4. Track Medical Case Manager and Medical Care Coordinator work load by case acuity IAW DoDI 6025.20, AFI 44-175 (until rescinded) and AFI 44-173, and number of contacts.

5.3.4.5.1.5. Based on performance measures, the ARC CMD will provide a 5-year program cost estimate by February of each year to SAF/MR, AF/A1MP, HAF/REM and respective ARC Surgeon Generals.

#### **5.4. Pre-MEDCON.**

5.4.1. **Purpose.** The purpose of pre-MEDCON orders (in cases where the condition was incurred or aggravated while the member was on IDT or AT), or orders extension (in cases where a member is already on orders), is to allow additional time to assess the ARC member's medical condition and for the MTF, RMU or GMU to initiate or complete an LOD determination, determine whether the medical condition renders the member unable to perform military duties and provide medical documentation to support a request for MEDCON orders. An ARC member on orders, or in IDT or AT status, may be eligible for up to 30 days of pre-MEDCON orders with approval from the member, the member's home station unit commander, the using MAJCOM and the orders issuing authority, if the member has incurred or aggravated an injury, illness or disease ILOD (see para. 1.10.1). Orders will not be issued or extended in cases of misconduct, or for the purpose of taking leave or reconstitution time.

5.4.1.1. Submit the following documentation to the orders issuing authority (see paras. 5.4.2, 5.4.3 and 5.4.4) to request pre-MEDCON orders extension: (T-1)

5.4.1.1.1. Member's acknowledgement/approval for pre-MEDCON orders extension, DD Form 2870, *Authorization for Disclosure of Medical or Dental Information and commander's memorandum approving pre-MEDCON orders*;

5.4.1.1.1.1. When the member is incapacitated and unable to acknowledge/approve the pre-MEDCON orders extension, the commander may acknowledge/approve the pre-MEDCON orders extension on behalf of the member and include this action in the commander's memorandum when approving the pre-MEDCON orders.

5.4.1.1.1.2. Current orders or documentation indicating the member's duty status; and

5.4.1.1.1.3. For AFR, use AF Form 40A, *Record of Individual Inactive Duty Training* (General Officer only), for Unit Training Assembly (UTA) duty status or Unit Training Assembly Participation System (UTAPS) report; or

5.4.1.1.1.4. For ANG, use NGB Form 105S, *Authorization for Individual Inactive Duty Training* or UTAPS report.

#### **5.4.2. Extension of Active Duty Military Personnel Appropriation (MPA) Order.**

5.4.2.1. If the member's medical condition cannot be diagnosed or resolved prior to completion of an Active Duty order, the member's RegAF commander or home unit commander may request an extension of the Active Duty order for up to 30 additional days through the Force Support Squadron (FSS) or, if deployed, the Personnel Support for Contingency Operations (PERSCO) and the chain of command. (T-1)

5.4.2.2. All Active Duty MPA order extension requests must be entered into M4S and routed through the appropriate MAJCOM Functional Area Manager (FAM) to the MAJCOM MPA Management Office (MMO). (T-1) The ARC unit will accomplish a new MPA tour request in M4S without a break in order. (T-1) This is accomplished by referencing the original M4S number in the new M4S request. The tour type for mobilizations will change to unit AEF Tasking, while all others tour types (D2D, WE, etc.), along with the Man-day Expenditure Allocation Number (MEAN) code, will remain the same as the original. In the remarks area of the M4S request, units will provide the tour title code "2X", original M4S number and approving authority Point of Contact (unit commander). MPA man-day allocation authority for orders extension remains with the MAJCOM MMO. If approved with no break in order, the orders clerk shall extend the current order by submitting a modification to orders. (T-1)

**5.4.3. Extension of Reserve Personnel Appropriation (RPA) Funded Title 10 or Title 32 Order.** The member's unit or orders issuing authority may extend the current order for up to 30 additional days for the purposes outlined in para. 5.4.1. (T-1)

**5.4.4. ARC Airmen on Inactive Duty Training (IDT) or Annual Training (AT) Status.** The member's unit may initiate RPA/Title 32 orders for up to 30 additional days for the purposes outlined in para. 5.4.1. (T-1)

**5.5. Requesting MEDCON Orders.** If the member's medical condition is not resolved prior to completion of the order or pre-MEDCON order extension (paras. 5.4.2, 5.4.3, 5.4.4), MEDCON may be requested through the ARC CMD. (T-1) Requests for MEDCON shall be electronically forwarded, with all supporting documentation from the member's Individual Reservist Readiness Integration Organization/Individual Reserve Medical Office (RIO/IRM) (for AFR IMAs) or servicing medical unit, to the ARC CMD for validation and approval of the request and certification of the MEDCON days. (T-1) Note: All email containing PII must be encrypted and organizational email box must be able to accept encrypted emails and encryption/signature certificates.

**5.5.1. Initial MEDCON Order.** Submit the following required documentation: (T-1)

5.5.1.1. A copy of the member's order or documentation indicating the member's duty status covering the period during which the injury, illness or disease was incurred or aggravated;

5.5.1.2. For AFR in IDT/UTA status, use AF Form 40A (General Officer only) for UTA duty status or UTAPS report;

5.5.1.3. For ANG in IDT/UTA status, use NGB Form 105S or UTAPS report;

5.5.1.4. An Interim or finalized LOD (AF Form 348, *Line of Duty Determination* or DD Form 261, *Report of Investigation Line of Duty and Misconduct Status*);

5.5.1.5. A completed AF Form 469;

5.5.1.6. A medical evaluation conducted by a credentialed military or civilian medical provider within the last 30 days and certified by a credentialed military medical provider that describes why the member is unable to meet retention or mobility standards IAW AFI 48-123;

5.5.1.7. Medical documentation, including individual medical treatment plan that incorporates occupational medicine guidelines, peer-reviewed recovery timeline with expected duration of the impairment and certified by a credentialed military medical provider; and Note: Medical documentation, including individual medical treatment plan, will be reviewed by the ARC CMD to ensure consistency with occupational medicine guidelines and peer-reviewed recovery timelines.

5.5.1.8. A signed DD 2870.

5.5.1.9. Any request for MEDCON that is not initiated within 30 days of when the injury, illness or disease was incurred or aggravated will require the member to submit a written explanation, endorsed by the Wing Commander, for the untimely reporting.

5.5.1.10. For Active Duty MPA MEDCON requests, all Active Duty MPA MEDCON order requests must be entered into M4S at or prior to application package submission.

**5.5.2. For Members with No Break in Order.** The member's servicing medical unit, or RIO/IRM (for AFR IMAs), shall electronically send the documentation listed in para. 5.5.1 to the ARC CMD for validation, approval and certification of the MEDCON request (see para. 5.6). (T-1)

5.5.2.1. Send all requests electronically through the ARC CMD electronic organization box.

**5.5.3. For Members with a Break in Order.** The member's servicing medical unit, or RIO/IRM (for AFR IMAs), shall electronically send the documentation listed in para. 5.5.1, including a finalized LOD (see para. 1.7.1), to the ARC CMD for validation, approval and certification of the MEDCON request (see para. 5.6). (T-1) Exception: For conditions that are latent or exhibit delayed onset, an Interim LOD may be used.

**5.6. Validation, Approval and Certification of MEDCON Requests.** The ARC CMD validates, approves and certifies MEDCON prior to RPA/MPA/Title 32 man-day allocation and orders issuance (see Attachment 8, MEDCON Days Request, Validation, Approval, Certification and Allocation Process). "Validation" is the medical determination that the member does not meet the standards for retention or mobility as stated in AFI 48-123. "Approval" is the subsequent administrative determination that the member is unable to perform military duties. "Certification" is the determination of the number of MEDCON days to be allocated.

**5.6.1. MEDCON Validation.**

5.6.1.1. To validate the MEDCON request, the ARC CMD will use occupational medicine guidelines and peer-reviewed recovery timelines and coordinate directly with the member's treatment team to concur/non-concur with the member's individual treatment plan and duration of the requested number of days for MEDCON orders.

5.6.1.2. The ARC CMD Medical Branch Chief is responsible for validating MEDCON order requests.

5.6.1.3. The validated MEDCON request shall be forwarded to the ARC CMD Division Chief.

**5.6.2. MEDCON Approval.**

5.6.2.1. The Division Chief has the authority to approve validated requests (i.e., determine that the member is unable to perform military duties and certify the number of MEDCON days to be allocated). This authority may be delegated jointly to the Medical Branch Chief and the Resource Advisor. Should the Medical Branch Chief and the Resource Advisor not reach consensus on approval, the MEDCON request will be sent to the Division Chief for final determination.

5.6.2.2. In making the discretionary determination as to whether a member is unable to perform military duties, the ARC CMD Division Chief (SAF/MR on appeal) shall be guided by the retention and mobility standards IAW AFI 48-123.

### 5.6.3. MEDCON Certification.

5.6.3.1. The number of MEDCON days to be certified shall be based on the validated individual medical treatment plan and cross-referenced with peer reviewed recovery guidelines.

5.6.3.2. Once the MEDCON request has been approved and the number of days certified, an end-date will be established for the current tour (if applicable) and a start-date and end-date for the MEDCON order. This is important to prevent a break in order and ensure members have continued eligibility and access to medical care.

5.6.3.2.1. Medical Hold. If the certified MEDCON order extends beyond the member's Expiration of Term of Service (ETS) or established date of separation (DOS), the member's unit, with the member's consent, shall request through the FSS that the member be placed on "Medical Hold" and the ETS or DOS date extended so there is no loss in benefits. (T-1)

5.6.3.2.1.1. Medical Hold is requested by a military medical provider IAW AFI 41-210. (T-1)

5.6.3.3. When a request for MEDCON orders has been validated, approved and certified, a MEDCON Certification Form will be generated to support allocation of MEDCON days.

### 5.6.4. Incomplete and Denied MEDCON Requests.

5.6.4.1. The ARC CMD Medical Case Manager or appointed authority will collaborate with the requesting agency, make every attempt to find incomplete information via electronic databases used in case management and provide specific requests for missing or inadequate supporting documentation needed for resubmission.

5.6.4.2. If the ARC CMD determines that a completed MEDCON request cannot be validated, the request will be denied and returned to the requesting agency. The member may appeal this decision IAW para. 5.9.

**5.7. Allocation and Issuance of MEDCON Orders.** When the MEDCON request has been validated, approved and certified by the ARC CMD, the MEDCON days will be allocated as follows:

5.7.1. **Allocation of Title 10 MPA MEDCON Days.** The MEDCON Certification Form will be forwarded to the ARC CMD Resource Advisor who will request in M4S the number

of MPA man-days indicated on the MEDCON Certification Form which in turn will allow the MEDCON request to flow to the MEDCON PM (AF/A1MP) for allocation.

5.7.1.1. The ARC CMD Resource Advisor will:

5.7.1.1.1. Ensure due diligence in requesting MPA man-days.

5.7.1.1.2. Be the POC for any required audit actions pertaining to MEDCON MPA funding certification.

5.7.1.2. The MEDCON PM (AF/A1MP) shall:

5.7.1.2.1. Allocate the requested MPA resources using M4S.

5.7.1.2.2. Account for MPA man-days as part of the MPA account.

5.7.1.3. The member's unit will issue the MEDCON order and make appropriate updates/inputs into M4S. (T-1)

**5.7.2. Allocation of Title 10 RPA MEDCON Days.** The Certification Form will be forwarded to the ARC CMD Resource Advisor who will request the number of RPA days indicated on the Certification Form from the member's wing.

5.7.2.1. The member's wing shall allocate the RPA days IAW wing and/or AFRC guidance. (T-1)

5.7.2.2. The member's unit will issue the order with the appropriate updates/inputs into the Air Force Reserve Order Writing System-Reserve (AROWS-R). (T-1)

5.7.2.3. In the event the member's wing does not have sufficient funds to support the allocation of MEDCON days, the wing shall request the necessary funding from AFRC/FMAR (see MEDCON myPers website). (T-1)

**5.7.3. NGB-funded/Title 32 and Title 10 RPA MEDCON Days.** The Certification Form will be forwarded to the ARC CMD Resource Advisor who will request the number of days indicated on the certification form from NGB/A1.

5.7.3.1. NGB/A1 shall allocate the days IAW ANG policy.

5.7.3.2. The member's unit will issue the order with the appropriate updates/inputs into AROWS. (T-1)

5.7.3.3. MEDCON orders with no break in service are extended through a modification to orders to ensure pay and entitlements continuity. (T-1)

5.7.4. MEDCON orders cannot be backdated. (T-1) Any claim for past entitlements, to include successful MEDCON appeals, must be addressed to the Air Force Board for Correction of Military Records (AFBCMR) IAW AFI 36-2603, *Air Force Board for Correction of Military Records*. (T-1)

5.7.5. All MEDCON days required to support MEDCON orders will be requested, validated, approved, certified, allocated, tracked, managed and reported through an electronic database.

5.7.5.1. The member's unit shall use M4S to enter and track all Title 10 MPA requests for MEDCON days. (T-1) Title 10 RPA, to include all non-contingency orders, and ANG Title 32 requests for MEDCON days will be tracked electronically using an

automated application. (T-1) **Note:** Continue using current processes until an automated application system becomes available.

5.7.6. Temporary Duty (TDY) orders that are not directly associated with the member's medical condition are not allowed while the member is on MEDCON orders. (T-1) Exceptions to policy may be requested through the member's unit commander and ARC CMD. (T-2)

5.7.7. Before MEDCON orders are issued, an *ARC CMD MEDCON Airman Responsibilities and Consent Form* (see myPers MEDCON website) will be signed and filed with the ARC CMD. (T-1)

## 5.8. Termination of MEDCON Orders.

5.8.1. **Mandatory Termination.** The member's MEDCON orders shall be terminated on the earliest date when one of the following actions occurs: (T-1)

5.8.1.1. The member declines to continue on MEDCON orders;

5.8.1.2. The member is able to perform military duties, as determined by the ARC CMD Division Chief (or delegated authority, see para. 5.6.2); or

5.8.1.3. The member is separated or retired as a result of a DES determination.

5.8.2. **Discretionary Termination.** MEDCON orders may be terminated at the discretion of the ARC CMD Division Chief, SAF/MR on appeal or pursuant to review under para 5.2.6, for the following:

5.8.2.1. The member's failure to fully participate in treatment or provide current and sufficient information as required by the MEDCON validation process;

5.8.2.2. The member's refusal to reply to official requests or correspondence regarding his or her medical status; or

5.8.2.3. The member's refusal, when not on approved convalescent or ordinary leave, to report for and perform duty consistent with his or her diagnosis and/or physical limitations.

5.8.3. **Termination Coordination.** Termination of MEDCON orders will be coordinated through the ARC CMD and then communicated to the MEDCON PM (AF/A1MP), respective AFR wings or Air National Guard Readiness Center.

5.8.3.1. Notification of termination of MEDCON orders. The ARC CMD will proactively maintain visibility of the DES and medical review board rulings that may result in unanticipated curtailment of MEDCON orders. ARC CMD Medical Case Management Teams shall keep members, their unit and servicing medical unit advised on potential or impending curtailment of MEDCON orders.

5.9. **Appealing Denied MEDCON Requests.** Members who are denied MEDCON orders may submit an appeal through the ARC CMD. Appeals must be made within 45 days of receipt of a MEDCON request denial.

5.9.1. **Appeal Authority.** SAF/MR is the appeal authority for denied MEDCON requests at the validation, approval, certification or allocation level. All appeals shall be submitted by the member's RIO/IRM (for AFR IMAs) or servicing medical unit to the ARC CMD. (T-



0)The appeal package will then be forwarded to the Air Force Medical Operations Agency (AFMOA) Commander or a delegated appropriate clinical director within AFMOA to conduct an independent review and make a recommendation to SAF/MR for final disposition of the case.

5.9.1.1. All appeals must include the following documentation:

5.9.1.1.1. Official letter, signed by the member, documenting what is being appealed and why it is being appealed;

5.9.1.1.2. Complete documentation of the LOD medical condition;

5.9.1.1.3. Latest or most current AF Form 469; and

5.9.1.1.4. All documents originally submitted in support of the MEDCON request.

5.9.1.2. Filing an appeal does not extend an existing MEDCON order or affect the member's military status.

**5.10. INCAP Pay Option.** IAW DoDI 1241.2, a member with an LOD condition may qualify for INCAP Pay under the following circumstances:

5.10.1. The eligible member declines MEDCON; or

5.10.2. The member is not eligible for MEDCON but cannot perform his or her civilian job duties and experiences a loss of earned income, to include wages lost due to accessing treatments. See Chapter 6 for INCAP Pay guidelines and processing.

### **5.11. Referral to the DES.**

5.11.1. Members on MEDCON orders with a medical condition that may affect continued military service or is potentially disqualifying will be referred to the DES within one year of the diagnosis. The DES referral will be made earlier than the one year limit if the condition is not expected to improve or remains disqualifying (see AFI 10-203).

5.11.1.1. Subject to paragraphs 5.2 (Eligibility), 5.8.1 (Mandatory Termination) and 5.8.2 (Discretionary Termination), members already on MEDCON orders shall be entitled to remain on those orders for the duration of IDDES processing.

5.11.1.1.1. In instances where the member appeals an Informal Physical Evaluation Board (IPEB) ruling, the member's servicing MTF makes TDY arrangements necessary for the purposes of the Formal Physical Evaluation Board (FPEB) appeal IAW AFI 36-3212. If the member has a treatment plan, all TDYs will be coordinated with the ARC CMD to ensure the TDY does not interfere with or delay treatment for the MEDCON condition(s).

5.11.1.2. Members who are not on MEDCON orders at the time of entry may apply for MEDCON, subject to para. 5.2 (Eligibility), while processing through IDDES.

5.11.2. For members on MEDCON orders being serviced by an MTF that has limited organic or network medical specialty services, the ARC CMD may review potential cases for referral to the 59 MDW, Lackland AFB, based on the established criteria below.

5.11.2.1. The servicing MTF is not a specialty hospital or joint specialty platform;

5.11.2.2. Member has a Code 37 on AF Form 469;

5.11.2.3. Member has a finalized Line of Duty Determination; and

5.11.2.4. Member's condition is stable or has a relatively predictable result. **Note:** Medical POCs will continue to coordinate administrative handling of the member's medical documentation with the ARC CMD to include providing a copy of the member's medical records.

## Chapter 6

### INCAPACITATION (INCAP) PAY FOR ARC MEMBERS

**6.1. Purpose.** The purpose of INCAP Pay is to authorize pay and allowances (less any civilian earned income) to those members who are not able to perform military duties because of an injury, illness or disease incurred or aggravated in the line of duty; or to provide pay and allowances to those members who are able to perform military duties (see para. 6.2.2) but experience a loss of earned income as a result of an injury, illness or disease incurred or aggravated in the line of duty (37 U.S.C. § 204). (T-0)

6.1.1. Members may be ordered to active duty or continued on active duty while being treated for or recovering from an injury, illness or disease incurred or aggravated in the line of duty (DODI 1241.2). (T-0)

6.1.2. Unless the member is performing military duties while receiving INCAP Pay for loss of earned civilian income, the member is not considered to be in a duty status while receiving INCAP Pay. Any subsequent injury, illness or disease that is incurred or aggravated during the INCAP Pay period while the member is not in a duty status is considered NILOD.

**6.2. Eligibility and Qualification Determination.** INCAP Pay eligibility requires an LOD determination of ILOD and a finding by a credentialed military medical provider that the member has an unresolved health condition requiring treatment that renders the member unable to perform military duties, or is able to perform military duties but demonstrates a loss of civilian earned income. (T-1)

**6.2.1. Unable to Perform Military Duties.** A member, who is unable to perform military duties (unable to meet retention or mobility standards IAW AFI 48-123), as determined by a military medical authority and the member's immediate commander, due to an injury, illness or disease incurred or aggravated in the line of duty, is entitled to full pay and allowances (including all incentives and special pays to which entitled, if otherwise eligible) IAW para. 6.2.3, less any civilian earned income. (T-1)

6.2.1.1. If the member is unable to perform military duties and is eligible for MEDCON but declines MEDCON, the member is still entitled to INCAP Pay minus any civilian earned income.

6.2.1.2. The member shall not be allowed to attend IDT periods or to acquire retirement points for performing IDTs while receiving INCAP Pay. (T-0)

6.2.1.3. Retirement Point Exception. The member may earn retirement points in order to satisfy the requirements for a qualifying year of service by completing approved correspondence courses as determined by the Base Education and Training Manager (BETM) through the Extension Course Institute (ECI).

**6.2.2. Able to Perform Military Duties.** A member who is able to perform military duties (see para. 6.5.1.3), as validated by the medical authority and determined by the immediate commander, but demonstrates a loss of civilian earned income as a result of an injury, illness or disease incurred or aggravated in the line of duty, is entitled to pay and allowance, including incentive and special pay, but not to exceed the amount of the demonstrated loss of

civilian earned income or the maximum pay entitlement (see para. 6.2.3), whichever is less. (T-1)

**6.2.3. Maximum Pay Entitlement.** The total amount of pay and allowances and compensation for a member who is entitled to such pay shall not exceed the amount of pay and allowances provided by law or regulation for a RegAF member of corresponding grade and length of service for that period. (T-0)

**6.2.4. Duration of Entitlements.** Pay and allowances under this instruction shall be paid only during the period a member remains unable to perform military duties or is able to perform military duty but demonstrates a loss of civilian earned income as a result of an injury, illness or disease incurred or aggravated in the line of duty. (T-0) Payment in any particular case may not be made for more than a 6 month period without review of the case by SAF/MR or delegated authority IAW Table 6.1 to ensure that continuation of military pay and allowances is warranted under this instruction and to determine whether the member should be referred to the DES. Such a review shall be made every 6 months. (T-1)

6.2.4.1. If the approved INCAP Pay period extends beyond the member's anticipated ETS or established DOS, the member's unit, with the member's consent, shall request through the FSS that the member be placed on "Medical Hold" and the ETS date extended so there is no loss in benefits. (T-1)

6.2.4.1.1. Medical Hold is requested by a military medical provider IAW AFI 41-210. (T-1)

### **6.3. Roles and Responsibilities.**

#### **6.3.1. Member.**

6.3.1.1. Provides the INCAP Pay Program Manager (PM) with all required documentation every 30 days while applying/receiving INCAP Pay. (T-1)

6.3.1.1.1. Submits medical treatment plan.

6.3.1.1.2. Submits copies of all medical treatment received to the RMU or GMU.

6.3.1.1.3. Submits monthly pay documentation if claiming loss of civilian earned income to Wing Finance Office or Reserve Pay Office (RPO).

6.3.1.1.4. Submits employer or self-employment information.

6.3.1.1.5. Reports all changes in medical and/or financial status immediately to the unit commander to prevent possible recoupment of overpayment.

6.3.1.2. Complies with Wing RMU or GMU requests for medical information and documentation. (T-1)

6.3.1.2.1. A member not in compliance with requests for medical information/evaluation is considered medically "unfit" for continued military duty and is referred to his/her immediate commander for separation processing IAW AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*.

6.3.1.2.2. Any request for INCAP Pay that is not initiated within 30 days of when the injury, illness or disease was incurred or aggravated will require the member to

submit a written explanation, endorsed by the immediate commander, for the untimely reporting.

6.3.1.3. Initiates INCAP Pay Extension request if eligible at least 60 days prior to expiration of any approved INCAP Pay period to avoid delays or interruption of pay and allowances. (T-1)

6.3.1.4. Reports to all future scheduled medical appointments, which includes reporting to the RMU or GMU on a monthly basis. (T-1)

**6.3.2. Immediate/ARC Unit Commander.**

6.3.2.1. Notifies member of Interim or Final LOD disposition and possible entitlements to INCAP Pay and refers member to INCAP Pay PM. (T-2)

6.3.2.2. Recommends approval or disapproval (AF Form 1971, *Application for Incapacitation Pay*) to the ARC Wing Commander on all requests for Initial INCAP Pay or Extensions. (T-2) When the unit commander is not readily available, the next command level may act on INCAP Pay requests.

6.3.2.3. Ensures member is advised to submit INCAP Pay Extension requests within 60 days before termination of current entitlement. (T-2)

6.3.2.4. Provides assistance for a member who is incapacitated and cannot physically report in person to the RMU or GMU or designates a unit member to assist a member who is physically unable to comply with requirements in this instruction to ensure benefit of all entitlements. (T-2)

6.3.2.5. Ensures the member provides necessary financial and medical documentation through collaboration with INCAP Pay PM. (T-2)

6.3.2.6. Receives AF Form 469 from the RMU or GMU and completes the commander's endorsement IAW AFI 10-203. (T-2)

6.3.2.7. Determines whether or not the member will be allowed to perform any military duty within the duty or mobility restrictions prescribed on AF Form 469, including duty outside of the member's AFSC. (T-1)

6.3.2.8. If not allowing member to perform military duty, provides a written notification to the member and INCAP Pay PM stating specific reasons why the member is not allowed to perform any military duties. (T-2)

6.3.2.9. Coordinates alternate duty location with other ARC Commander(s) if medical issues prevent travel and another unit is closer to the member's residence. (T-2)

6.3.2.10. Coordinates with FSS and Finance Office or RPO to ensure: (T-1)

6.3.2.10.1. Benefits are curtailed in the event the incapacitation incurred or aggravated is found to be NILOD.

6.3.2.10.2. Procedures are in place for cases in which the member is projected to remain incapacitated for more than 6 months.

6.3.2.10.3. INCAP Pay termination is processed IAW para. 6.5.

6.3.2.10.4. Monitors/tracks unit assigned members who are incapacitated.

6.3.2.11. Monitors/tracks unit assigned members who are incapacitated.

**6.3.3. Force Support Squadron (FSS).**

6.3.3.1. FSS/CC appoints an INCAP Pay PM (who may also be the LOD PM) who will be the focal point for administering, educating, referring and documenting INCAP Pay. (T-2)

6.3.3.2. INCAP Pay PM is responsible for:

6.3.3.2.1. Briefing the member on his/her entitlements and responsibilities during periods of entitlement to INCAP Pay and Extensions beyond initial 6 month period. (T-2)

6.3.3.2.2. Obtaining and processing all appropriate documentation, Initial INCAP Pay and Extensions, using INCAP Pay processing. (T-2)

6.3.3.2.3. Reviewing each INCAP Pay request for completeness and processing the request. (T-2)

6.3.3.2.4. Notifying and coordinating all approval or disapproval of INCAP Pay requests with unit commander, RMU or GMU and RPO/Wing FM. (T-2)

6.3.3.2.5. Providing a monthly program status report on all members receiving INCAP Pay to the Wing Commander, ARPC, AFRC/A1 and SG, State Air Surgeon (SAS), the Adjutant General (TAG) and NGB/A1. (T-2)

6.3.3.2.6. For ANG, coordinate Initial INCAP Pay and Extension packages with State Human Resources Office/Office of Worker Compensation Program (HRO/OWCP) only if the member is a federal technician employee. (T-2)

**6.3.4. RMU (AFR) or GMU (ANG).**

6.3.4.1. RMU/CC or GMU/CC appoints an INCAP Pay Focal Point who will be responsible for: (T-2)

6.3.4.1.1. Briefing medical entitlements (see myPERS website) to members and providing the member a signed copy. (T-2)

6.3.4.1.2. Advising members that they must report to the RMU or GMU every 30 days with supporting medical documentation to initiate or update AF Form 469 with appropriate duty and/or mobility restrictions based on supporting documentation directly related to the LOD condition. (T-2)

6.3.4.1.3. Ensuring medical treatment for an injury, illness or disease incurred or aggravated in the line of duty is not delayed because of administrative requirements. (T-2)

6.3.4.2. Applicable to cases medically case managed by the ARC CMD, the RMU or GMU will send complete clinical documentation and approved INCAP Pay requests to the ARC CMD for case management upon Initial INCAP Pay approval and subsequent Extensions. (T-2)

6.3.4.3. Identify cases requiring pre-IDES processing via the DAWG prior to submittal of Extension request when incapacitation extends beyond initial 6 month period. (T-2)

6.3.4.4. Ensure cases that warrant processing through the DES are referred to the closest appropriate MTF for processing without delay. (T-2)

6.3.4.5. Notify members and unit commander using AF Form 469 on all medical updates every 30 days. (T-2)

6.3.4.6. Provide Wing, Financial Office and servicing FSS with an INCAP Pay update of medical information and a copy of the AF Form 469 when updated, to certify the member is still eligible for INCAP Pay.

6.3.4.7. Ensure the member's case remains active in the DAWG until returned to duty, discharged/retired or medically separated or retired as a result of a DES determination.

6.3.4.8. Update the INCAP Pay PM when the member no longer has duty or mobility restriction(s) as determined by the medical authority and immediate commander. (T-2)

6.3.4.9. Complete Military Medical Provider section of AF Form 1971 and forward to the immediate commander. (T-2)

### 6.3.5. **Military Treatment Facility (MTF).**

6.3.5.1. Ensure MTF Commanders assign and train a manager for cases involving ARC members who are not on active duty but require healthcare at that facility. (T-0)

### 6.3.6. **Reserve Pay Office (RPO) or ANG Wing Finance.**

6.3.6.1. Provide financial briefing to members on pay and allowance entitlements. (T-2)

6.3.6.2. Determine and verify member's eligibility (every 30 days) through demonstrated loss of earned income as a result of the LOD condition. (T-1)

6.3.6.3. Receive INCAP Pay request package, obtain any additional military pay documentation required to support payment of full pay and allowances, compute the entitlement, and process the payment. (T-2) Incomplete packages will be returned to the INCAP Pay PM for correction.

6.3.6.4. Provide pay and allowances, to the extent permitted by law. (T-1)

6.3.6.5. Ensure the total amount of pay does not exceed the amount of pay and allowances a RegAF member of the same grade and length of service would receive for the authorized period. (T-0)

6.3.6.6. Ensure pay and allowances under this instruction are paid only during the period a member remains unable to perform military duties, or if able to perform military duties, only paid where a member demonstrates a loss of civilian earned income to include self-employment income. (T-0)

6.3.6.7. Ensure pay and allowances are in place for timely payment and start no later than 30 days after the illness, injury or disease was incurred or aggravated, and continue without interruption until terminated. (T-0)**Note:** Prompt payment starting within 30 days depends on actions of all stakeholders, including the member.

6.3.6.8. Establish procedures to ensure that pay and allowances are not terminated due to administrative oversight. (T-0)

6.3.6.9. No payment is authorized beyond 6 months without approval by an Approving Authority. (T-0)

6.3.6.9.1. Terminate entitlement to pay and allowances when appropriate.

**6.3.7. Staff Judge Advocate (SJA). Not applicable to ANG.**

6.3.7.1. Wing SJA.

6.3.7.1.1. Provides guidance to the Wing Commander. (T-2)

6.3.7.1.2. Reviews and signs AF Form 1971. (T-2)

6.3.7.2. AFR HQ SJA.

6.3.7.2.1. Reviews AF Form 1971 and provides guidance to Approving Authority.

**6.3.8. ARC Wing Commander.**

6.3.8.1. Ensures all base level agencies are in compliance with this instruction. (T-1)

6.3.8.2. Provides program guidance to ensure INCAP Pay allowances are not terminated due to administrative neglect and/or the period of incapacitation is not extended because of unwarranted delays in medical treatment. (T-1)

6.3.8.3. Approves or disapproves Initial INCAP Pay. (T-2)

6.3.8.4. Endorses the unit commander's late submission letter if there is a delay in submitting an INCAP Pay Extension. (T-2)

6.3.8.5. Makes recommendations on INCAP Pay Extension or appeal requests to ARC A1. (T-2)

6.3.8.6. Submits request with justification for payment of pay and allowances that will exceed 24 months from the Initial INCAP date of approval to ARC A1 no later than 90 days prior to the 24 month date. (T-0)

**6.3.9. AFRC/SG and NGB/SG.**

6.3.9.1. For AFR, when requested by the Wing Commander on an as needed basis, review member's medical records and recommend approval or disapproval of all INCAP Pay requests to ARPC. For ANG, review member's medical records and recommend approval or disapproval of all INCAP Pay requests to NGB/A1.

6.3.9.1.1. May direct pre-DES screening when reviewing INCAP Pay Extensions.

6.3.9.1.2. Provide guidance to RMU or GMU on medical program responsibilities.

6.3.9.1.3. Provide assistance to RMU or GMU to obtain necessary medical evaluations and administrative documents from Active Component MTFs regardless of military branch.

6.3.9.1.4. Resolve issues between RMU or GMU and Active Component MTFs that cannot be resolved at wing level.

**6.3.10. Air Reserve Personnel Center (ARPC) and National Guard Bureau, Manpower, Personnel and Services (NGB/A1).**



6.3.10.1. Receive INCAP Pay Extension requests and recommend approval or disapproval to AF/RE or ANGRC/CC.

6.3.10.2. Receive INCAP Pay appeal requests, coordinate and recommend approval or disapproval to AF/RE or ANGRC/CC.

6.3.10.3. If a member is able to perform military duty and demonstrates loss of civilian earned income, provide justification of approval for payment of pay and allowances that will exceed 24 months from the Initial INCAP date of approval to SAF/MR no later than 60 days prior to the 24 month date.

**6.3.11. Chief of Air Force Reserve (AF/RE) and Air National Guard Readiness Center Commander (ANGRC/CC).**

6.3.11.1. Approve/disapprove INCAP Pay Extensions.

6.3.11.2. When considering an INCAP Pay appeal, may approve INCAP Pay requests without additional coordination with SAF/MR.

6.3.11.3. When considering an INCAP Pay appeal request and recommending SAF/MR disapproval, forward to SAF/MR for final appeal disposition.

6.3.11.4. Provide semi-annual report to SAF/MR denoting number of requests reviewed, categorized by final determination, number of referrals made to the DES, number of days required to process, trends and include any suggestions for broader policy changes that would benefit the AF and/or members. Reports shall be submitted on 30 July (Jan-Jun) and 30 January (Jul-Dec).

**6.3.12. Air Reserve Component Case Management Division (ARC CMD).**

**6.3.12.1. Medical Case Management of Members Receiving INCAP Pay.**

6.3.12.2. If staffing resources permit, members on INCAP Pay may be assigned on a case by case basis to the Medical Case Management Teams consisting of Medical Case Managers and Care Coordinators. The ARC CMD responsibilities will include but are not limited to:

6.3.12.2.1. Interface with the member, unit, DAWG, Wing, Command (AFRC/NGB), MTF/RMU/GMU, medical providers, TRICARE, PEBLOs and others to facilitate the medical management of INCAP Pay cases.

6.3.12.2.2. Communicate as necessary, at least monthly, with the member and/or entities specified above.

6.3.12.2.3. Maintain visibility of LOD and INCAP Pay processing through an automated system (when available) to streamline case management.

6.3.12.2.4. Leverage RegAF resources for AFR/ANG medical appointments and referrals. This includes services available through the R&SMSO that provide minimal care coordination to support medical/dental services for those members outside of RegAF MTF catchment areas.

**6.3.13. Secretary of the Air Force Manpower and Reserve Affairs (SAF/MR).**

6.3.13.1. Serve as the final appeal authority for all INCAP Pay requests disapproved by AF/RE or ANGRC/CC.

6.3.13.2. Provide copies of approval notices for payment of pay and allowances that will exceed 24 months from the Initial INCAP date of approval to the Assistant Secretary of Defense for Reserve Affairs (DODI 1241.2).

**6.4. Requesting INCAP Pay.** The member may request INCAP Pay through the servicing FSS by completing and submitting the required application documentation below. The INCAP Pay PM will route the INCAP Pay request IAW Table 6.1 for approval. (T-2)**Note:** Continue using current processes until Total Force automated system becomes available.

**6.4.1. Initial INCAP Pay and Extension Requests.**

6.4.1.1. Submit the following required documentation:

6.4.1.1.1. Staff Summary Sheet requesting Initial INCAP Pay signed by the immediate commander or INCAP Pay Extension signed by the Wing Commander;

6.4.1.1.2. A copy of the member's order or documentation indicating the member's duty status covering the period during which the injury, illness or disease was incurred or aggravated;

6.4.1.1.2.1. For AFR, use AF Form 40A (General Officer only) for UTA duty status or UTAPS;

6.4.1.1.2.2. For ANG, use NGB Form 105S or UTAPS;

6.4.1.1.3. An Interim or Final AF Form 348 or DD Form 261;

6.4.1.1.4. A completed AF Form 469;

6.4.1.1.5. A medical evaluation conducted by a credentialed military medical provider within the last 30 days that substantiates an unresolved health condition and details occupational limitations associated with it;

6.4.1.1.6. Updated medical information;

6.4.1.1.7. An individual medical treatment plan approved by a credentialed military medical provider based on occupational medicine guidelines and peer-reviewed recovery timelines that includes the expected duration of the impairment;

6.4.1.1.8. Signed DD 2870;

6.4.1.1.9. Member-signed AF Form 1971;

6.4.1.1.10. Personnel briefing;

6.4.1.1.11. Medical entitlements briefing;

6.4.1.1.12. Financial entitlements briefing;

6.4.1.1.13. If applicable, immediate commander's (for Initial INCAP Pay) or wing commander's (for INCAP Pay Extension) explanation of delayed INCAP Pay request; and

6.4.1.1.14. If the member is claiming loss of earned income:

6.4.1.1.14.1. Employer/employee release statement and Statement from Civilian Employer (on Company Letterhead).

6.4.1.1.14.2. If employed, pay statement (i.e., pay stub, pay statement or civilian leave and earning statement) from civilian employer.

6.4.1.1.14.3. If self-employed, self-employed/unemployment statement, gain/loss statement and income protection statement.

6.4.1.1.15. If applicable, member's memorandum endorsed by the immediate commander, for the untimely reporting.

6.4.1.1.16. For ANG, if the member is a federal technician, the HRO/OWCP must complete and submit a temporary light duty recommendation/memorandum.

6.4.1.2. The Wing Commander will review Initial INCAP Pay requests or appeals and process the requests within 3 days from the date of submission.

6.4.1.3. ARPC or NGB/A1 will review INCAP Pay Extension requests and appeals and process the requests within 10 days from the date of submission.

6.4.1.4. Approved or disapproved INCAP Pay Extension and appeal requests from AF/RE or ANGRC/CC will be returned to ARPC or NGB/A1 to forward to the INCAP Pay PM.

6.4.1.4.1. Approved INCAP Pay Extension. The INCAP Pay PM will forward approved INCAP Pay Extension packages to the RPO or ANG Wing Finance for action and notify the respective workflow points of contact IAW Table 6.1. (T-2)

6.4.1.4.2. Disapproved INCAP Pay Extension. The INCAP Pay PM will forward disapproved INCAP Pay Extension packages to the respective workflow points of contact IAW Table 6.1 for final disposition processing, possible resubmittal or appeal. (T-2)

**Table 6.1. INCAP Pay Coordination, Approval and Appeal Authorities.**

<b>Coordination, Approval and Appeal Authorities</b>		<b>Role</b>	<b>Processing Timeline</b>
<b>AFR</b>	<b>ANG</b>		
Member	Member	Request INCAP Pay (Initial/Extension)	(See <b>Note 1</b> )
INCAP Pay PM	INCAP Pay PM	Administer/process INCAP Pay requests	3 Workdays
Reserve Medical Unit	Guard Medical Unit	Coordinate/recommend	5 Workdays
Immediate/ARC Unit Commander	Immediate/ARC Unit Commander	Coordinate/recommend	5 Workdays
Wing Finance Office (Reserve Pay Office)	Wing Finance Office	Coordinate/certify	5 Workdays
Staff Judge Advocate	N/A	Coordinate/recommend	9 Workdays (See <b>Note 2</b> )
Wing Commander	Wing Commander	<b>Initial INCAP Pay</b> <ul style="list-style-type: none"> <li>• Approve/Disapprove Initial INCAP Pay</li> </ul> <b>INCAP Pay Extensions</b> <ul style="list-style-type: none"> <li>• Coordinate/recommend INCAP Pay Extensions</li> </ul> <b>Appeals</b> <ul style="list-style-type: none"> <li>• Coordinate/recommend all INCAP Pay appeals</li> </ul>	3 Workdays
ARPC (See Note 3)	NGB/A1 (See Note 3)	<b>INCAP Pay Extensions</b> <ul style="list-style-type: none"> <li>• Coordinate/recommend INCAP Pay Extensions</li> </ul> <b>Appeals</b> <ul style="list-style-type: none"> <li>• Coordinate/recommend all INCAP Pay appeals</li> </ul>	10 Workdays (See <b>Note 1</b> )
AF/RE	ANGRC/CC	<b>INCAP Pay Extensions</b> <ul style="list-style-type: none"> <li>• Approve/Disapprove INCAP Pay Extensions</li> </ul> <b>Appeals</b> <ol style="list-style-type: none"> <li>1. Approve Initial INCAP Pay</li> <li>2. Recommend disapproval of INCAP Pay appeal requests to SAF/MR</li> </ol>	10 Workdays (See <b>Note 1</b> )
SAF/MR	SAF/MR	Final INCAP Pay Appeal Authority	10 Workdays (See <b>Note 1</b> )
<b>Notes:</b>			
1. Not included in processing timeline.			
2. For Initial INCAP Pay requests involving ANG federal technicians, the SJA will have 6 Workdays			

Coordination, Approval and Appeal Authorities		Role	Processing Timeline
AFR	ANG		
instead of 9 Workdays to offset processing timeline requirements.			
3. Includes SG and SJA review.			

**6.5. Termination of INCAP Pay.** Termination of INCAP Pay will be coordinated through the member's immediate commander, INCAP Pay Manager, RPO or ANG Wing Finance and ARC CMD (if applicable). INCAP Pay shall be terminated on the earliest date when one of the following actions occurs:

**6.5.1. Mandatory Termination of INCAP Pay.** (T-1)

6.5.1.1. The member declines INCAP Pay;

6.5.1.2. The member's LOD determination was found to be NILOD-Due to Member's Misconduct or NILOD-Not Due to Member's Misconduct;

6.5.1.3. For members who were unable to perform military duty, the member is able to perform military duties as determined by the immediate commander and meets the specific retention and mobility standards for the original injury, illness or disease condition as validated by the medical authority;

6.5.1.4. For members who were able to perform military duty, the member no longer experiences a loss of civilian earned income as a result of the LOD condition;

6.5.1.5. The member is discharged/retired, or medically separated or retired, as a result of a DES determination; or

6.5.1.6. AF/RE, ANGRC/CC or SAF/MR determines that it is no longer in the interest of fairness and equity to continue pay and allowances.

**6.5.2. Discretionary Termination of INCAP Pay.** INCAP Pay benefits may be terminated at the discretion of the member's immediate commander (for Initial INCAP Pay) or SAF/MR (for INCAP Pay Extensions) for the following: (T-1)

6.5.2.1. The member fails to fully participate in treatment or provide current/sufficient medical and financial documentation as required for INCAP Pay eligibility;

6.5.2.2. The member refuses to reply to official requests or correspondence regarding his or her financial or medical status; or

6.5.2.3. The member refuses to report for and perform military duties within the duty and mobility restrictions prescribed on AF Form 469.

**6.5.3. INCAP Pay Notification Coordination.** The INCAP Pay PM will proactively maintain visibility of DES and medical review board rulings that may result in unanticipated curtailment of INCAP Pay and shall keep members, their unit and servicing medical unit advised on potential or impending curtailment of INCAP Pay. (T-2)

**6.6. Appealing Denied INCAP Pay Requests.** Members that are denied INCAP Pay may submit an appeal to SAF/MR through the agencies outlined IAW Table 6.1. Appeals must be made within 45 days of receipt of an INCAP PAY request denial. (T-1)

6.6.1. The appeal package will be forwarded from the INCAP Pay Manager through the coordination/recommendation agencies for approval with AF/RE, ANGRC/CC or SAF/MR for final disposition of the appeal request IAW Table 6.1.

6.6.1.1. All appeals must include the following documentation:

6.6.1.1.1. Official letter, signed by the member, documenting what is being appealed and why it is being appealed;

6.6.1.1.2. Memorandum from disapproval authority explaining rationale for disapproval;

6.6.1.1.3. All documents originally submitted in support of the INCAP Pay request; and

6.6.1.1.4. Latest or most current AF Form 469.

6.6.1.2. Filing an appeal does not extend existing INCAP Pay or affect the member's military status.

DANIEL R. SITTERLY, SES, SAF/MR  
Principal Deputy Assistant Secretary Manpower  
and Reserve Affairs

## Attachment 1

## GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

*References*

- Executive Order 9397, *Numbering System for Federal Accounts Relating to Individual Persons*
- 10 U.S.C. § 972, *Members: Effect of Time Lost*
- 10 U.S.C. § 1074a, *Medical and Dental Care: Members on Duty Other Than Active Duty for a Period of More Than 30 Days*
- 10 U.S.C. § 1201, *Regulars and Members on Active Duty for More Than 30 Days: Retirement*
- 10 U.S.C. § 1202, *Regulars and Members on Active Duty for More Than 30 Days: Temporary Disability Retired List*
- 10 U.S.C. § 1203, *Regulars and Members on Active Duty for More Than 30 Days: Separation*
- 10 U.S.C. § 1204, *Members on Active Duty for 30 Days or Less or on Inactive-Duty Training: Retirement*
- 10 U.S.C. § 1206, *Members on Active Duty for 30 Days or Less or on Inactive-Duty Training: Separation*
- 10 U.S.C. § 1206a, *Reserve Component Members Unable to Perform Duties When Ordered to Active Duty: Disability System Processing*
- 10 U.S.C. § 1207, *Disability from Intentional Misconduct or Willful Neglect: Separation*
- 10 U.S.C. § 1207a, *Members with Over Eight Years of Active Service: Eligibility for Disability Retirement for Pre-Existing Conditions*
- 10 U.S.C. § 1448, *Application of Plan*
- 21 U.S.C. § 812, *Schedules of Controlled Substances*
- Title 32 U.S.C., *National Guard*
- 37 U.S.C. § 204, *Entitlement*
- 37 U.S.C. § 802, *Forfeiture of Pay During Absence from Duty Due to Disease from Intemperate Use of Alcohol or Drugs*
- 38 U.S.C. § 1110, *Wartime Disability Compensation—Basic Entitlement*
- 38 U.S.C. § 1131, *Peacetime Disability Compensation—Basic Entitlement*
- 38 U.S.C. § 3017, *Death Benefit*
- DoDD 1241.01, *Reserve Component Medical Care and Incapacitation Pay for Line of Duty Conditions*, 28 February 2004
- DoDI 1241.2, *Reserve Component Incapacitation System Management*, 30 May 2001
- DoDI 1332.18, *Disability Evaluation System (DES)*, 5 August 2014
- DoDI 6025.20, *Medical Management (MM) Programs in the Direct Care System (DCS) and Remote Areas*, 9 April 2013

DoDI 6490.07, *Deployment-Limiting Medical Conditions for Service Members and DOD Civilian Employees*, 5 February 2010

DoDI 6495.02, *Sexual Assault Prevention and Response (SAPR) Program Procedures*, 28 March 13

DoD FMR 7000.14-R, Volume 7A, *Military Pay Policy and Procedures - Active Duty and Reserve Pay*, April 2013

AFI 10-203, *Duty Limiting Condition*, 20 November 2014

AFI 10-401, *Air Force Operations Planning and Execution*, 7 December 2007

AFI 33-332, *Air Force Privacy and Civil Liberties Program*, 12 January 2015

AFI 36-2254 Volume 1, *Reserve Personnel Participation*, 26 May 2010

AFI 36-2603, *Air Force Board for Correction of Military Records*, 5 March 2012

AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Airmen*, 14 April 2005

AFI 36-2619, *Military Personnel Appropriation (MPA) Man-Day Program*, 18 July 2014

AFI 36-3003, *Military Leave Program*, 26 October 2009

AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*, 27 February 2006

AFI 36-6001 *Sexual Assault Prevention and Response*, 29 September 2008

AFI 36-8101, *Total Force Human Resource Management Domain Governance*, 4 December 2013

AFI 41-210, *TRICARE Operations and Patient Administration Functions*, 6 June 2012

AFI 44-109, *Mental Health and Military Law*, 1 March 2000

AFI 44-119, *Medical Quality Operations*, 16 August 2011

AFI 44-173, *Population Health and Medical Management*, 19 November 2014

AFI 48-123, *Medical Examinations and Standards*, 7 November 2013

AFMAN 33-363, *Management of Records*, 1 March 2008

AFMAN 65-116, Volume 3, *Defense Joint Military Pay System (DJMS) - Reserve Component (DJMS-RC)*, 15 March 2007

AFPD 36-29, *Military Standards*, 24 September 2014

AFPD 36-30, *Military Entitlements*, 2 August 1993

### ***Prescribed Forms***

DD Form 261, *Report of Investigation Line of Duty and Misconduct Status*

DD Form 2870, *Authorization for Disclosure of Medical or Dental Information*

SF 600, *Chronological Record of Medical Care*

AF 40A, *Record of Individual Inactive Duty Training for Unit Training Assembly (UTA) Duty Status*



AF Form 348, *Line of Duty Determination*

AF 422, *Notification of Air Force Member Qualification Status*

AF Form 469, *Duty Limiting Condition Report*

AF Form 847, *Recommendation for Change of Publication*

AF Form 1768, *Staff Summary Sheet*

AF Form 1971, *Application for Incapacitation Pay*

NGB 3632, *Air National Guard Lost Wages Statement for Incapacitation Pay Application*

NGB 105S, *Authorization for Individual Inactive Duty Training*

***Abbreviations and Acronyms***

**A1**—Manpower, Personnel and Services

**AD**—Active Duty

**ADT**—Active Duty for Training

**AF**—Air Force

**AFI**—Air Force Instruction

**AFPD**—Air Force Policy Directive

**AFMAN**—Air Force Manual

**AFMOA**—Air Force Medical Operations Agency

**AFPD**—Air Force Policy Directive

**AFR**—Air Force Reserve

**AFROTC**—Air Force Reserve Officer Training Corps

**AGR**—Active Guard and Reserve

**ANG**—Air National Guard

**ANGRC/CC**—Air National Guard Readiness Center/Commander

**ARC**—Air Reserve Component

**ARC CMD**—Air Reserve Component Case Management Division

**BCMR**—Board for Correction of Military Records

**DAWG**—Deployment Availability Working Group

**DES**—Disability Evaluation System

**DoD**—Department of Defense

**DoD FMR**—Department of Defense Financial Management Regulation

**DOS**—Date of Separation

**EAD**—Extended Active Duty

**ETS**—Expiration of Term of Service  
**FMO**—Financial Management Office  
**EPTS**—Existed Prior to Service  
**FMO**—Financial Management Office  
**FPEB**—Formal Physical Evaluation Board  
**FSS**—Force Support Squadron  
**GMU**—Guard Medical Unit  
**HQ AFPC**—Headquarters Air Force Personnel Center  
**HQ ARPC**—Headquarters Air Reserve Personnel Center  
**HQ AFRC**—Headquarters Air Force Reserve Command  
**HSB**—Human Resource Management Strategic Board  
**IAW**—In Accordance With  
**IDES**—Integrated Disability Evaluation System  
**IDT**—Inactive Duty for Training  
**ILOD**—In Line of Duty  
**IMA**—Individual Mobilization Augmentee  
**INCAP**—Incapacitation  
**IO**—Investigating Officer  
**IPEB**—Informal Physical Evaluation Board  
**JA**—Judge Advocate  
**LOD**—Line of Duty  
**LOD**—MFP - Line of Duty-Medical Focal Point  
**MEB**—Medical Evaluation Board  
**MEDCON**—Medical Continuation  
**MMSO**—Military Medical Support Office  
**MPA**—Military Personnel Appropriation  
**MperRGP**—Master Personnel Record Group  
**MTF**—Military Treatment Facility  
**NGB**—National Guard Bureau  
**NILOD**—Not in Line of Duty  
**OPR**—Office of Primary Responsibility  
**OSI**—Office of Special Investigations

**PEB**—Physical Evaluation Board

**PIRR**—Participating Individual Ready Reservist

**PM**—Program Manager

**RMU**—Reserve Medical Unit

**RPA**—Reserve Personnel Appropriation

**R&SMSO**—Reserve and Service Member Support Office (formerly MMSO)

**SAF/MR**—Assistant Secretary of the Air Force, Manpower and Reserve Affairs

**SARC**—Sexual Assault Response Coordinator

**SAS**—State Air Surgeon

**SECAF**—Secretary of the Air Force

**SG**—Surgeon General

**SGP**—Surgeon General Medical Operations Division

**SJA**—Staff Judge Advocate

**TAG**—The Adjutant General

**UCMJ**—Uniform Code of Military Justice

**USAFA**—United States Air Force Academy

**VA**—Department of Veterans Affairs; Victim Advocate

**U.S.C.**— United States Code

### *Terms*

**Absent Without Authority**— Consider member absent without authority if he or she is voluntarily absent without leave for more than 24 hours, or was voluntarily absent from a scheduled duty or formation, a restriction or an arrest. Scheduled duty or formation means doing a specified task at a specified time and place for a specified purpose. It is not the same as regularly scheduled duty. Consider the member absent without authority if not excused and absent from duty in civil confinement for more than 24 hours. The term absent without authority is the same as unauthorized absence.

**Accidental Death**— Refers to a death from inadvertent action or action where no harm was intended.

**Active Duty (AD)**— Full-time duty in the active military service of the United States. For the purposes of this instruction, AD refers to members of the RegAF, AFR-AGRs, ANG-Permanent AGRs and ARC Extended AD (EAD). **Note:** Also see Non-Active Duty.

**Active Duty for Training (ADT)**— A tour of Active Duty that is used for training members of the Reserve components to provide trained units and qualified persons to fill the needs of the Armed Forces in time of war or national emergency and such other times as the national security requires. The member is under orders that provides for return to non-active status when the

period of ADT is completed. It includes Annual Training, special tours of ADT, school tours and the initial duty for training performed by non-prior service enlistees.

**Air Reserve Component (ARC)**— The component of the USAF that includes the Air Force Reserve and Air National Guard.

**Alcohol Abuse**— The illegal or improper use or possession of alcohol, on or off duty, that results in, but is not limited to, impaired duty performance, intoxicated driving, domestic disturbances, assault, aberrant behavior, altercations, underage drinking or other behavior inconsistent with Air Force standards.

**Allocation**— Days (on orders) given to a subordinate unit for expenditure (also referred to as sub-allocation).

**Clear and Convincing Evidence**— Evidence indicating that the thing to be proved is highly probable or reasonably certain. It is a burden of proof that is higher than a preponderance of evidence but lower than clear and unmistakable evidence.

**Clear and Unmistakable Evidence**— It is undebatable information that the condition existed prior to military service or if increased in service was not aggravated by military service. In other words, reasonable minds could only conclude that the condition existed prior to military service from a review of all of the evidence in the record. It is a standard of evidentiary proof that is higher than a preponderance of evidence and clear and convincing evidence.

**Confidential Communication**— Oral, written or electronic communications of personally identifiable information concerning a sexual assault victim and the sexual assault incident provided by the victim to the SARC, SAPR VA or healthcare personnel in a Restricted Report. This includes the victim's SAFE Kit and its information.

**Disability Evaluation System (DES)**— The DoD mechanism for determining return to duty, separation or retirement of members because of disability in accordance with Chapter 61 of Title 10, United States Code. Members will proceed through one of three DES processes: the Legacy Disability Evaluation System (LDES), the Integrated Disability Evaluation System (IDES) or the Expedited Disability Evaluation System (EDES).

**Disease**— The abnormal condition of an organism that impairs bodily functions, associated with specific symptoms and signs. Disease may be caused by external factors, such as infectious diseases, or it may be caused by internal dysfunctions, such as autoimmune diseases.

**Drugs**— Any controlled substance included in Schedules I, II, III, IV and V in 21 U.S.C. § 812, including anabolic or androgenic steroids, or any intoxicating substance, other than alcohol, that is inhaled, injected, consumed or introduced into the body in any manner to alter mood or function.

**Drug Abuse**— The illegal or improper use, possession, sale, transfer or trafficking of any controlled substance included in Schedules I, II, III, IV and V in 21 U.S.C. § 812, *Schedules of controlled substances*, drug abuse paraphernalia or any intoxicating substance, other than alcohol, that is inhaled, injected, consumed or introduced into the body in any manner to alter mood or function.

**Duty Status**— For purposes of this instruction, a member is considered to be in a duty status during any period of Active Duty, funeral honors duty or Inactive Duty Training; while traveling directly to or from the place at which funeral honors duty or inactive duty is performed; while

remaining overnight immediately before the commencement of inactive duty training or between successive periods of inactive duty training, at or in the vicinity of the site of the Inactive Duty Training, if the site is outside reasonable commuting distance of the member's residence; and while remaining overnight at or in the vicinity of the place the funeral honors duty is to be performed immediately before serving such duty, if the place is outside of a reasonable commuting distance from the member's residence.

**Earned Income**— Income from nonmilitary employment, including self-employment. This includes normal wages, salaries, professional fees, tips or other compensation for personal services actually rendered, as well as income from income protection plans, vacation pays and sick leave that the member elects to receive. It does not include rents, royalties, retirement pays, dividends or interest, welfare payments or other nontaxable Government benefits.

**Extended Active Duty (EAD) and Active Guard/Reserve (AGR)**— Reserve Component members on voluntary active duty providing full-time support to Reserve Component or Active Component organizations for the purpose of organizing, administering, recruiting, instructing or training the Reserve Components.

**Gross Negligence**— See Willful Neglect.

**Healthcare Personnel**— Persons assisting or otherwise supporting healthcare providers in providing healthcare services (e.g., administrative personnel assigned to a military medical treatment facility or mental healthcare personnel). Healthcare personnel also include all healthcare providers.

**Hostile Casualty**— A person who is the victim of a terrorist activity or who becomes a casualty “in action”.

**Inactive Duty Training (IDT)**— Authorized training performed by a member of a Reserve Component not on Active Duty (AD) or Active Duty for Training (ADT) and consisting of regularly scheduled Unit Training Assemblies (UTA), additional training assemblies, periods of appropriate duty or equivalent training and any special additional duties authorized for Reserve Component personnel by the Secretary concerned and performed by them in connection with the prescribed activities of the organization in which they are assigned with or without pay. Does not include work or study associated with correspondence course.

**Incapacitation**— Physical disability due to injury, illness or disease that prevents the performance of military duties as determined by the Secretary concerned, or which prevents the member from returning to the civilian occupation in which the member was engaged at the time the injury, illness or disease was incurred or aggravated.

**Incurred**— To occur as a result of or during military duty.

**Injury**— Damage or harm caused to the structure or function of the body caused by an outside agent or force.

**In Line of Duty (ILOD)**— A finding, after all available information has been reviewed, that determines an injury, illness or disease was incurred or aggravated while in an authorized duty status and was not due to misconduct.

**Integrated Disability Evaluation System (IDES)**— The IDES is the joint DoD-VA process by which DoD determines whether wounded, ill or injured members are fit for continued military service and by which DoD and VA determine appropriate benefits for members who are

discharged or retired for a Service-connected disability. The IDES features a single set of disability medical examinations appropriate for fitness determination by the Military Departments and a single set of disability ratings provided by VA for appropriate use by both departments. Although the IDES includes medical examinations, IDES processes are administrative in nature and are independent of clinical care and treatment.

**Intemperate**— Not temperate or moderate; excessive, especially in the use of alcoholic beverages. Someone who is given to excessive indulgence of bodily appetites especially for intoxicating liquors; a hard drinker.

**Intentional Conduct**— An act, by commission or omission, done on purpose.

**Interim Line of Duty**— A preliminary LOD determination pertaining to ARC Airmen that is used to determine eligibility for continued medical care and pay and allowances. An interim ILOD determination is made unless there is clear and unmistakable evidence that the injury, illness or disease was not incurred or aggravated in a duty status, or clear and convincing evidence shows it was due to misconduct. The AF Form 348 is a valid Interim LOD when both the Military Medical Provider and Immediate Commander blocks have been completed.

**Intervening Cause**— An independent action occurring between the original wrongful act or omission and the death, illness, injury or disease that turns aside the natural sequence of events and produces a result which would not otherwise have followed and been foreseeable.

**Intoxication**— A state in which a person's normal capacity to act or reason is inhibited by alcohol or drugs.

**Medical Evaluation Board Phase**— The MEB phase of the IDES includes activities from the point of referral to the IDES to the transfer of a completed MEB case file to the PEB administration function.

**Mental Responsibility**— The capacity to understand when one's conduct is wrong and to conform one's conduct to the requirement of the law. All members are presumed mentally responsible for their acts, unless there is contrary evidence. This presumption usually means it is unnecessary to pursue the issue of mental responsibility unless there is credible evidence of lack of mental responsibility. Such evidence may consist of the circumstances surrounding the death, illness, injury or disease, previous abnormal or irrational behavior, expert opinion or other evidence directly or indirectly pointing toward lack of mental responsibility. Members are not responsible for their misconduct and its foreseeable consequence if, as a result of mental disease or defect, they lack substantial capacity either to appreciate that their conduct is wrong or to conform the conduct to the requirements of law. The term "mental disease or defect" does not include an abnormality manifested only by repeated wrongful or otherwise antisocial behavior. Members with impaired mental faculties as a result of their own prior misconduct, such as by taking a hallucinogen, other illegal (controlled) substance or deliberately ingesting any harmful/dangerous substance, are mentally responsible.

**Military Duty(ies)**— The duties of a member's office and grade as determined by the Secretary concerned, and not necessarily the specialty skill or special qualification held by the member prior to incurring or aggravating an injury, illness or disease in the line of duty.

**Misconduct**— Intentional conduct that is wrongful or improper. Also, willful neglect or gross negligence.

**Non-identifiable Personal Information**— Non-identifiable personal information includes those facts and circumstances surrounding the sexual assault incident or that information about the individual that enables the identity of the individual to remain anonymous. In contrast, personal identifiable information is information belonging to the victim and alleged assailant of a sexual assault that would disclose or have a tendency to disclose the person's identity.

**Non—active Duty ARC** - Part-time duty in the Active Military Service of the United States. A general term applied to ARC active Military Service. For purposes of this instruction, non-Active Duty includes all Air Reserve Technicians (ART), ANG Technicians, Traditional Reservist (TR), Individual Mobilization Augmentees (IMA) and Drill Status Guardsmen (ANG) performing the following, to include but not limited to: mobilization and contingencies, Active Duty Operational Support (ADOS), Full Time National Guard Duty, Military Personnel Appropriation (MPA), Reserve Personnel Appropriation (RPA), Annual Training (AT), school tours, AD for Training (ADT), Initial AD Training (IADT), Inactive Duty Training (IDT) or Unit Training Assembly (UTA). These members will require an Informal/Formal LOD. **Note:** Also see Active Duty.

**Personally Identifiable Information**— Includes the person's name, other particularly identifying descriptions (e.g., physical characteristics or identity by position, rank or organization) or other information about the person or the facts and circumstances involved that could reasonably be understood to identify the person (e.g., a female in a particular squadron or barracks when there is only one female assigned).

**Preponderance of Evidence**— The greater weight of credible evidence. That evidence that, when fairly considered, produces the stronger impression and is more convincing as to its truth when weighed against the opposing evidence.

**Proximate Cause**— It is the cause that, in a natural and continuous sequence unbroken by an independent and unforeseeable new cause, results in the death, illness, injury or disease and without which the death, illness, injury or disease would not have occurred.

**Reserve Personnel Appropriation (RPA)**— Money budgeted by the Reserve and National Guard to pay Reservists/Guardsmen for performing Reserve/Guard or Active Duty related training. RPA includes the following: Inactive Duty Training (IDT), Annual Tour (AT), Active Guard-Reserve, Active Duty Operational Support (ADOS) and Special Training (ST).

**Restricted Reporting**— Reporting option that allows sexual assault victims to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR VA or healthcare personnel) and receive medical treatment, including emergency care, counseling and assignment of a SARC and SAPR VA, without triggering an official investigation. The victim's report provided to healthcare personnel (including the information acquired from a SAFE Kit), SARCs or SAPR VAs will NOT be reported to law enforcement or to the command to initiate the official investigative process unless the victim consents or an established exception applies. Only a SARC, SAPR VA or healthcare personnel may receive a Restricted Report.

**Secretary Concerned**— The Secretary of the Air Force with respect to matters concerning the Air Force.

**Self-Inflicted Death**— Refers to a death resulting from the actions of the deceased and includes both suicide and accidental death.

**Separate(d)/Separation**— Severance of military affiliation as opposed to released from active duty. For the purposes of this AFI, separate(d)/separation refers to discharge from the Air Force (either Regular or ARC).

**Service Aggravation**— The permanent worsening of a pre-service medical condition, over and above natural progression of the condition, caused by trauma or the nature of military service.

**Sexual Assault Prevention and Response (SAPR) Program**— A DoD program for the Military Departments and the DoD Components that establishes SAPR policies to be implemented worldwide. The program objective is an environment and military community intolerant of sexual assault.

**Sexual Assault Prevention and Response Victim Advocate (SAPR VA)**— A person who, as a victim advocate, provides non-clinical crisis intervention, referral and ongoing non-clinical support to adult sexual assault victims. Support includes providing information on available options and resources to victims. The SAPR VA, on behalf of the sexual assault victim, provides liaison assistance with other organizations and agencies on victim care matters and reports directly to the SARC when performing victim advocacy duties.

**Sexual Assault Response Coordinator (SARC)**— The single point of contact at an installation or within a geographic area that oversees sexual assault awareness, prevention and response training; coordinates medical treatment, including emergency care, for victims of sexual assault; and tracks the services provided to a victim of sexual assault from the initial report through final disposition and resolution.

**Specialty Platform**— Seven Air Force Military Treatment Facilities (MTFs) are designated by AF/SG for MTF Optimization: Eglin, Elmendorf, Keesler, Langley, Nellis, Travis and Wright-Patterson. In addition, two Medical Wings, 59MDW Lackland, and 79MDW Andrews, are joint operations providing additional platforms for MEDCON MEBs.

**Suicide**— Refers to a death resulting from purposeful action intended to result in one's own death. In order for suicide to constitute willful misconduct, the act of self-destruction must be intentional. A person of unsound mind is incapable of forming intent (*mens rea*, or guilty mind, which is an essential element of crime or willful misconduct).

Whether a person, at the time of suicide, was so unsound mentally that he or she did not realize the consequence of such an act, or was unable to resist such impulse, is a question to be determined in each individual case, based on all available lay and medical evidence pertaining to his or her mental condition at the time of suicide. The act of suicide is, in and of itself, considered evidence of mental unsoundness.

**If there is no reasonable adequate motive for suicide, as shown by the evidence, the act will be considered to have resulted from mental unsoundness. A reasonable adequate motive for suicide may only be established by affirmative evidence showing circumstances which could lead a rational person to self—destruction.** In all instances, any reasonable doubt should be resolved favorably to support a determination of ILOD.

**Suicide Attempts and Suicidal Gestures**— When reviewing a suicide attempt or gesture, consider all evidence, to include potential issues that may serve as motivation. Evidence of mental responsibility, including an expert psychiatric evaluation, should be obtained and considered.



**A bona fide suicide attempt, in the absence of any intervening misconduct, raises a strong legal presumption of lack of mental responsibility due to the instinct for self—preservation.** A bona fide suicide attempt is sufficient evidence to rebut a presumption of mental responsibility.

**Intentionally self—**inflicted illness, injury or disease not prompted by a bona fide suicide attempt may be found to be the result of misconduct unless a lack of mental responsibility can be shown. In all instances, any reasonable doubt should be resolved favorably to support a determination of ILOD.

**Unable to Perform Military Duties—** The member is unable to meet retention or mobility standards IAW AFI 48-123, *Medical Examinations and Standards*.

**Under the Influence of Alcohol or Drugs—** Any intoxication caused by alcohol or drugs that is sufficient to impair the rational and full exercise of the mental or physical faculties.

**Unrestricted Reporting—** A process that an individual covered by this policy uses to disclose, without requesting confidentiality or Restricted Reporting, that he or she is the victim of a sexual assault. Under these circumstances, the victim's report provided to healthcare personnel, the SARC, a SAPR VA, command authorities or other persons is reported to law enforcement and may be used to initiate the official investigative process.

**Willful Neglect—** An act or acts of omission or commission that evidence a reckless or wanton disregard for their attendant consequences. Conduct that indicates a member exhibited a reckless or wanton disregard for his or her own personal well-being or for the well-being of another. Willful neglect is the same as gross negligence.

## Attachment 2

### **LOD DETERMINATIONS FOR SPECIFIC SITUATIONS NOTE: THE GUIDANCE FOR THE FOLLOWING SITUATIONS APPLIES TO THE REGAF. APPLICABILITY TO ARC MEMBERS WILL BE BASED ON DUTY STATUS AND THE SPECIFICS OF THE SITUATION.**

**A2.1. Alcohol Abuse.** Drinking, drunkenness and alcoholism by themselves are not illnesses, diseases or injuries requiring an LOD determination to be initiated. They may more properly require punitive or other administrative action.

A2.1.1. Initiate an LOD determination when the member suffers an illness, injury, disease or death because of alcohol abuse.

A2.1.1.1. An injury incurred during the intemperate use of alcohol should be found to be due to misconduct if it is proven that the intemperate use of alcohol was the proximate cause of the injury.

A2.1.1.2. Any acute or transient disease directly caused by or immediately following the intemperate use of alcohol should be found to be due to misconduct. Additionally, organic diseases or disabilities that are secondary to alcoholism, such as Laennec's cirrhosis, fatty metamorphosis of the liver and chronic brain syndrome, should be found to be due to misconduct.

**A2.2. Drug Abuse.** Drug abuse itself is not considered to be a disease or an injury for the purpose of requiring an LOD determination to be initiated.

A2.2.1. Initiate an LOD determination when the member suffers an illness, injury, disease or death because of drug abuse.

A2.2.2. Drug abuse is strong evidence of misconduct. Illness, injury, disease or death proximately caused by drug abuse should be found to be due to misconduct. This includes the debilitating effect the drug has on the body and the effect the drug has in impairing the member's mental or physical faculties affecting his or her actions. The fact that the member may have a preexisting physical condition causing him or her to be more susceptible to the effects of the drug does not, of itself, excuse any resulting misconduct.

A2.2.2.1. Illness, injury, disease or death resulting from drug abuse may be found to be due to misconduct even though the drug abuse was made known as a result of the limited privilege communication program, identified through urinalysis or incident to medical care for other than drug abuse.

**A2.3. Explosives, Firearms, and Dangerous Substances.** Unexploded ammunition or other objects, firearms, and highly flammable liquids are inherently dangerous and their handling necessitates a high degree of care. Tampering with, attempting to ignite, or otherwise handling such objects in disregard of their dangerous qualities is strong evidence of misconduct.

**A2.4. Fights.** Aggression or voluntary participation in a fight or similar encounter, where a member is at least equally at fault with the adversary in starting or continuing the fight, is evidence of misconduct. Additional evidence of misconduct includes provocative actions or language taken or uttered under circumstances where a reasonable person would anticipate retaliation.

A2.4.1. There is no misconduct if a member is a victim of an unprovoked assault or acts in self-defense. Misconduct may not always be the proximate cause of injury caused by excessive means. For example where a fight is underway and an adversary uses an excessive means that, under the circumstances, could not reasonably be foreseen.

A2.4.1.1. However, there can be a causal connection between the misconduct and the injury or death where a member persists in a fight or other encounter knowing that an adversary has produced a dangerous weapon. Determine each case on its own facts.

**A2.5. Joint Ventures, Imputed Misconduct.** A member can be held responsible for the misconduct of another if the member exercises control over, and is responsible for, the conduct of the principal actor or if the circumstances demonstrate coordinated action sufficient to establish a joint enterprise. Mere presence of the member is not sufficient to establish a joint enterprise or to give a basis for holding the member responsible for the misconduct of another. There is no obligation to exert a positive or constructive influence over the conduct of the principal actor.

#### **A2.6. Motor Vehicle Accidents.**

A2.6.1. A member who operates a motor vehicle in an intentionally wrongful or negligent manner that was the proximate cause of an illness, injury, disease or death may be found to have engaged in misconduct.

A2.6.2. A member who knew or should have reasonably known he or she was unfit to drive, and who is injured as a result of driving a motor vehicle when unfit to do so, may be found to have engaged in misconduct. The test for misconduct is whether a reasonable person, under circumstances and conditions similar to those under which the member drove, would or would not have undertaken to drive and whether having elected to drive, the member's actions constitute intentional misconduct or willful neglect.

A2.6.2.1. Voluntary intoxication, use of drugs or other circumstances that affect the member's mental or physical faculties cause a member to be unfit.

A2.6.2.2. It is not necessarily misconduct when a member has a motor vehicle accident because he or she fell asleep while driving.

A2.6.3. Injury or death incurred while not wearing safety devices such as seat belts or safety helmets is one factor to consider. Standing alone, the violation of a safety standard or regulation constitutes only simple negligence. The violation must, under the circumstances, amount to gross, willful or wanton carelessness to constitute misconduct.

A2.6.3.1. The failure to use safety devices may have nothing to do with the proximate cause of the injury or death. For example, the failure to wear a safety helmet may have nothing to do with a motorcyclist who breaks a leg.

A2.6.3.2. In other cases, failure to use safety devices can aggravate the injuries but will not be the proximate cause of the injuries.

A2.6.3.3. Do not focus solely upon whether or not the member was wearing seat belts or other protective devices at the time of the accident, instead carefully examine the facts and circumstances of each case.

**A2.7. Participation in Inherently Hazardous Off-Duty Activities.** An LOD Determination for a member who participated in inherently hazardous off-duty activities is evaluated the same way as any other case. Consider the nature of the activity, its inherent hazards and the prior training and experience of the member.

**A2.8. Pregnant Members.** Do not perform an LOD determination for pregnancy or for any diagnosis associated with pregnancy. Make an LOD determination if the member is unable to do her duties for more than 24 hours, there is a likelihood of a permanent disability or in cases involving an induced abortion in violation of the law of the location of the abortion.

**A2.9. Refusal or Failure to Seek Medical or Dental Treatment.** Consider as misconduct, unreasonable refusing or failing through willful neglect or by design to submit to medical, surgical or dental treatment, which proximately causes illness, injury, disease or death even though misconduct did not cause the original condition.

**A2.10. Residual Effects of Surgery or Treatment.** Normal disability resulting from the surgery or treatment incurred NILOD is likewise NILOD. However, you may find unanticipated residuals from the surgery or treatment as incurred ILOD.

**A2.11. Resisting Arrest/Escape from Custody.** Consider any illness, injury, disease or death resulting from resisting arrest or trying to escape from custody a result of the member's misconduct. The member can reasonably anticipate the use of necessary force, even excessive force, to restrain him or her. One who engages in such activities acts in disregard of personal safety.

**A2.12. Suicide, Suicide Attempts and Suicidal Gestures.** When reviewing a suicide, suicide attempt or gesture, obtain evidence on the question of mental responsibility, including an expert psychiatric evaluation. Consider all evidence bearing on the suicide, suicide attempt or gesture and any problem that might serve as motivation for the incident.

A2.12.1. A bona fide suicide or attempt, in the absence of any intervening misconduct, raises a strong inference of lack of mental responsibility because of the instinct for self-preservation. A bona fide suicide or attempt is sufficient evidence to rebut the presumption that the member was mentally responsible.

A2.12.2. Intentionally self-inflicted illness, injury or disease not prompted by a bona fide suicide attempt may be found to be the result of misconduct unless a lack of mental responsibility can be shown. In all instances, any reasonable doubt should be resolved favorably to support a determination of ILOD.

**A2.13. Venereal Disease.** The fact that a member has a venereal disease is not, by itself, evidence of misconduct.

### Attachment 3

#### GUIDE FOR INVESTIGATING OFFICERS (T-1)

**A3.1. Duty.** The IO will attempt to determine all the facts leading up to and connected with a death, injury, illness or disease and render a comprehensive detailed report, which includes a recommended determination of whether or not the death, illness, injury or disease occurred in the line of duty. The report must contain enough pertinent data to enable later reviews to be made without additional information.

**A3.2. Investigate the Circumstances.** The IO will ascertain dates, places, persons and events definitely and accurately.

A3.2.1. Consult with the Staff Judge Advocate. The IO should consult with the SJA before beginning the investigation and as often as necessary during the investigation.

A3.2.2. Secure Reports. The IO should obtain copies of all pertinent records including:

A3.2.2.1. Relevant documents with respect to the duty, leave, pass or unauthorized absence status of the member at the time of the incident resulting in death, illness, injury or disease. When the subject is a member of the USAFR or ANGUS, include information as to his or her status in relation to EAD, ADT, IDT, etc., at the time of the incident.

A3.2.2.2. All relevant military police reports, including summaries of the OSI report.

A3.2.2.3. All relevant civilian police reports. While civilian agencies will make traffic investigations available to an IO, OSI assistance may be necessary to obtain civilian reports of criminal investigations.

A3.2.2.4. All relevant medical reports including analysis of blood, breath, urine and tissue.

A3.2.2.5. When relevant, information concerning the site and terrain at which the incident in question occurred and photographs, maps, charts, diagrams or other exhibits which may be helpful to a complete understanding of the incident.

A3.2.2.6. For cases involving suicides, suicide attempts or gestures, obtain a copy of the mental health evaluation. If there has been no evaluation and one is necessary, have the member's commander or the appointing authority request one. Collect evidence bearing on the mental condition of the member, including evidence of actions or moods immediately before the incident, and any problems that might motivate the act.

A3.2.3. Secure Statements.

A3.2.3.1. Statement of Subject. The report of investigation must contain the sworn statement of the subject of the investigation (see Attachment 4, Sample Format for Statements) or an explanation why the statement could not be obtained.

A3.2.3.2. Advise Subject of Rights.

A3.2.3.2.1. Section 1219 Rights. In all cases, the subject of the investigation must be advised before being interviewed that 10 U.S.C. § 1219 states: "A member of an armed force may not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury that (he)(she) has. Any such statement against

(his)(her) interests, signed by a member, is invalid.” A member’s right to make a statement is violated if a person, in the course of the investigation, obtains the member’s oral statements and reduces them to writing, unless the above advice was given first.

A3.2.3.2.2. Article 31 Rights. Advise the subject of his or her rights under Article 31, UCMJ, only if you suspect the commission of an offense. Consult with the SJA on the form of the advice.

A3.2.3.3. Witness Statements. Obtain statements of witnesses with relevant information. If witnesses are not available for personal interview, obtain copies of available sworn or unsworn statements made by those witnesses to other investigators. If no such statements are available, arrange where possible, for others to take the statements. See Attachment 4, Sample Format for Statements.

A3.2.3.4. Advise Witnesses.

A3.2.3.4.1. Section 1219 Rights. Do not apply to witnesses.

A3.2.3.4.2. Article 31 Rights. Do not apply to civilian witnesses. Advise a military witness of his or her rights under Article 31 of the UCMJ only if you suspect the commission of an offense. Consult with the SJA on the form of the advice.

A3.2.4. Develop the Facts. When alcohol is concerned in an investigation, thoroughly explore the part it played. Pertinent questions which should be resolved are the amount and type of liquor consumed, period of time during which it was consumed, outward appearance of the person before the incident (staggering, bellicose, unable to speak rationally, etc.). Include the results of any alcohol tests taken shortly after the incident in question.

**A3.3. Make the Determination.** A member’s illness, injury, disease or death is presumed ILOD unless the preponderance of evidence shows that the illness, injury, disease or death occurred while the member was absent without authority or was proximately caused by the member’s misconduct.

A3.3.1. Duty Status Determination. An illness, injury, disease or death incurred while a member is absent without authority is NILOD. It does not matter whether the illness injury, disease or death was or was not the result of the member's misconduct.

A3.3.1.1. Rely on the immediate commander’s finding that the member was present for duty or absent with authority unless there is evidence to the contrary.

A3.3.1.2. Inquire further into the facts and circumstances of the member’s duty status when the immediate commander finds the member was absent without authority or where there is evidence to indicate the commander’s finding of present for duty or absent with authority is incorrect. For the definition of the term “absent without authority”, see Attachment 1.

A3.3.2. Misconduct Determination. Determine whether misconduct was or was not the proximate cause of the member’s illness, injury, disease or death. For explanation of the terms “misconduct” and “proximate cause”, see Attachment 1.

**A3.4. Compile the Report.**

A3.4.1. DD Form 261, *Report of Investigation, Line of Duty and Misconduct Status*. Serves as a cover sheet and forwarding document. Complete lines 1-12 of the form.

A3.4.2. IO Report. At the conclusion of the investigation, the IO prepares a narrative report. The report should include a statement of the authority under which the investigation was conducted, identification of any duty time lost, the matter investigated, the facts, a discussion of those facts as they relate to the issues under investigation, conclusions, and a statement of findings. The IO should clarify any discrepancy in the date and place of illness, injury, disease or death, or in the evidence as to the duty status of the member. When relevant, comment on the credibility of statements of witnesses.

A3.4.3. Supporting Documents. All documents in the report must be of good quality. Original documents should be in the report to the extent they are available. The documents should be assembled as follows:

**Figure A3.1. Supporting Documents**

DD Form 261 as cover sheet

Tab A - Index of exhibits

Tab B - Legal review

Tab C - IO summary

Tab D - IO appointment letter

Tab E - AF Form 348

Tab F - Subject's sworn statement or IO explanation why subject's statement is unavailable.

Tab G - Statements of witnesses.

Tab H - Copies of orders or other documents relating to duty status

Tab I - Copies of other investigative reports prepared by military or civilian authorities

Tab J - Maps, photographs or sketches

Tab K - Medical records relevant to the LOD determination

A3.4.3.1. The IO may add additional tabs as needed. If more than one exhibit appears under a given tab, label the exhibits separately; for example, F-1, F-2 and F-3. Where there are no exhibits to include behind a given tab, the tab letter should still appear in the index with the notation "No exhibit, this tab."

**A3.5. Forward the Documentation.** The IO will send the completed report to the appointing authority.

## Attachment 4

## SAMPLE FORMAT FOR STATEMENTS

## Figure A4.1. SAMPLE FORMAT FOR STATEMENTS

**Statement of Subject of Investigation.** I, (name), (grade), (address), am aware that I may submit a sworn statement in connection with this investigation concerning my \_\_\_\_\_ (specify what the disease or injury is).

I have been advised that 10 U.S.C. § 1219 provides as follows:

“A member of an armed force may not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury that (he) (she) has. Any such statement against (his) (her) interests, signed by a member, is invalid.”

I understand that I cannot be required to sign any such statement but that if I willingly do so it may be considered in determining whether or not my injury or disease occurred in the line of duty.

(I have also been advised of my rights under Article 31 of the UCMJ [see **Note 1**]).

I make and sign the following sworn statement voluntarily and with this understanding:

(Body of Statement)

\_\_\_\_\_  
(Signature of member)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Signature of person administering the oath [see **Note 2**])

**PRIVACY ACT STATEMENT**

**AUTHORITY:** 5 U.S.C. §§ 2108, 3309-3315, 8140; 10 U.S.C. §§ 507, 972, 1074, 1201-1221; 37 U.S.C. §§ 204, 403, 802; 38 U.S.C. §§ 1110, 1131, 1710, 1712.

**PURPOSE:** Information provided is used by processing activities in determining whether you were or were not acting in line of duty when your illness, injury or disease occurred. The information will be filed in your Master Personnel Record Group and you will be given a copy as well. Information may be reviewed by the base ground safety office.

**ROUTINE USES:** NONE.

**DISCLOSURE IS VOLUNTARY:** If information is not provided, the Air Force will complete processing using information that is available.

**Notes:**

1. Omit if military member is not suspected of committing an offense.
2. The investigating officer, any person authorized by 10 U.S.C. § 936 or a notary public may administer the oath. Enter the typed or printed name, grade or organization or, if a notary, the notary's identification under the signature block.



**Figure A4.2. Statement of Military Witness Other than the Subject of the Investigation.**

I, (name), (grade), (address), (have been advised of my rights under Article 31 of the UCMJ, [see **Note 1**]) am aware of the purpose of this investigation and of the importance of a correct and complete statement of the facts as known to me (see **Note 2**).

I understand the foregoing and make the following sworn statement:  
(Body of Statement)

\_\_\_\_\_  
(Signature of witness)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of person administering the oath [see **Note 3**])

**PRIVACY ACT STATEMENT**

**AUTHORITY:** 5 U.S.C. §§ 2108, 3309-3315, 8140; 10 U.S.C. §§ 507, 972, 1074, 1201-1221; 37 U.S.C. §§ 204, 403, 802; 38 U.S.C. §§ 1110, 1131, 1710, 1712.

**PURPOSE:** Information provided is used by processing activities in determining whether the ill, injured, diseased or deceased member was or was not acting in line of duty when the illness, injury, disease or death occurred. The information will be filed in the member's Master Personnel Record Group and the member will be given a copy as well. Information may be reviewed by the base ground safety office.

**ROUTINE USES:** NONE.

**DISCLOSURE IS MANDATORY:** If information known to a military witness is not provided when lawfully ordered to do so by the investigating officer, the witness is subject to punishment under the UCMJ.

**Notes:**

1. Omit if the member is not suspected of committing an offense.
2. After explaining the purpose and importance of the investigation, request the military witness to provide any relevant information known to them. In the rare case, a military witness may not wish to disclose information. The investigating officer can legally order a military witness other than the subject of the investigation, to disclose the information if the disclosure will not tend to incriminate the witness. A military witness can rely upon those rights provided by Article 31 of the UCMJ when requested or ordered to disclose information that might tend to be self-incriminating. Before ordering a military witness to disclose information, the investigating officer should consult with the staff judge advocate.
3. The investigating officer, any person authorized by 10 U.S.C. § 936 or a notary public may administer the oath. Enter the typed or printed name, grade or organization or, if a notary, the notary's identification under the signature block.

**Figure A4.3. Statement of Civilian Witness.**

I, (name), (address), am aware of the purpose of this investigation and of the importance of a correct and complete statement of the facts as known to me, I understand the foregoing and voluntarily make the following sworn statement:

(Body of Statement)

\_\_\_\_\_  
(Signature of witness)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of person administering the oath [see **Note 1**])

**PRIVACY ACT STATEMENT**

**AUTHORITY:** 5 U.S.C. §§ 2108, 3309-3315, 8140; 10 U.S.C. §§ 507, 972, 1074, 1201-1221; 37 U.S.C. §§ 204, 403, 802; 38 U.S.C. §§ 1110, 1131, 1710, 1712.

**PURPOSE:** Information provided is used by processing activities in determining whether the ill, injured, diseased or deceased member was or was not acting in line of duty when the illness, injury, disease or death occurred. The information will be filed in the member's Master Personnel Record Group and the member will be given a copy as well. Information may be reviewed by the base ground safety office.

**ROUTINE USES:** NONE.

**DISCLOSURE IS VOLUNTARY (see Note 2):** If information is not provided, the Air Force will complete processing using information that is available.

**Notes:**

1. The investigating officer, any person authorized by 10 U.S.C. § 936 or a notary public, may administer the oath. Enter the typed or printed name, grade or organization or, if a notary, the notary's identification under the signature block.
2. Witnesses who are civilian employees of the Department of Defense may be required to provide a statement. The IO should coordinate with the Civilian Personnel Flight regarding whether a DoD civilian must provide a statement.

**Attachment 5**

**SAMPLE FORMAT OF MEMBER NOTIFICATION OF NOT IN LINE OF DUTY DETERMINATION**

**Figure A5.1. SAMPLe FORMAT OF MEMBER NOTIFICATION OF NOT IN LINE OF DUTY DETERMINATION**

Date
MEMORANDUM FOR: (Member's Name)
FROM: (Immediate Commander)
SUBJECT: Notification of Determination of Not in Line of Duty under AFI 36-2910
<p>This letter serves to notify you that (Name of Approving Authority), approving authority under AFI 36-2910, has determined that your (describe illness, injury or disease at issue) occurred Not in Line of Duty. This determination was reached after review of a formal investigation of the circumstances of your injury or disease. This determination can be reconsidered only if you notify (Name of Appointing Authority), in writing, of new and significant evidence that indicates a likelihood of error in the determination. Such a request for reconsideration must be made within 45 days of receipt of this notification.</p> <p>Alternatively, you may appeal this determination to (name of appellate authority), appellate authority, in writing, within 30 days of receipt of this notification. Any request for reconsideration or appeal must be sent to (address of FSS/MPS).</p> <p style="text-align: center;">(Commander's Signature Block)</p>
Attachments: Copy of Case File

## Attachment 6

**SAMPLE FORMAT OF NOTIFICATION OF NOT IN LINE OF DUTY  
DETERMINATION IN DEATH CASES**

**Figure A6.1. SAMPLE FORMAT OF NOTIFICATION OF NOT IN LINE OF DUTY  
DETERMINATION IN DEATH CASES**

<p>Date</p> <p>MEMORANDUM FOR: (Name of Next of Kin)</p> <p>FROM: (Immediate Commander)</p> <p>SUBJECT: Notification of Determination of Not in Line of Duty under AFI 36-2910</p> <p>This letter serves to notify you that (Name of Approving Authority), approving authority under AFI 36-2910, has determined that (member's name) death occurred Not in Line of Duty. This determination was reached after review of a formal investigation of the circumstances of (his)(her) death.</p> <p>10 U.S.C. § 1448 provides that a member's dependents may be eligible for benefits under the Survivor Benefit Plan, as long as the member's death was found to be In Line of Duty. As a result of the determination that (member's name) was Not in Line of Duty, (his) (her) dependents will not be eligible for benefits under this plan.</p> <p>This determination can be reconsidered only if you notify (Name of Appointing Authority), in writing, of new and significant evidence that indicates a likelihood of error in the determination. Such a request for reconsideration must be made within 45 days of receipt of this notification.</p> <p>Alternatively, you may appeal this determination to (name of appellate authority), appellate authority, in writing, within 30 days of receipt of this notification. Any request for reconsideration or appeal must be sent to (address of FSS/MPS).</p> <p align="right">(Commander's Signature Block)</p> <p>Attachments: Copy of Case File</p>
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## Attachment 7

### SAMPLE ARC CMD PERFORMANCE MEASURES FRAMEWORK

**Table A7.1. SAMPLE ARC CMD PERFORMANCE MEASURES FRAMEWORK**

Measure	Monthly Trend	Year To Date	Illness / Injury	Counts				Number of LODs				Orders Status				Referred to DES				Wing	Component	
				All	Min	Avg	Max	All	One	Two	3+	T10 MPA	T10 RPA	Title 32	IN CAP	All	RTD	Med Ret	Dis-charge		AFR	NGB
Number of cases within the Case Management System - Pending	x	x		x				x				x	x	x	x					x	x	x
Number of cases within the Case Management System - Completed	x	x		x				x				x	x	x	x					x	x	x
Total number of cases within the Case Management System (include LOD initial and/or completed)	x	x		x				x	x	x	x	x	x	x	x					x	x	x
Number of members with illness/injury from contingency operations	x	x	x	x				x				x	x	x	x	x	x	x	x	x	x	x
Case Manager Acuity (Number of contacts/hours by Case Manager)	x	x	x	x				x				x	x	x	x					x	x	x
Care Coordinator Acuity (Number of contacts/hours by Care Coordinator)	x	x	x	x				x				x	x	x	x					x	x	x
Types of Illness/Injury by LOD description		x		x				x				x	x	x	x						x	x
Duration between LOD Determination Initiated/Completed and Start of MEDCON orders	x	x		x	x	x	x	x				x	x	x	x						x	x
Duration between LOD Determination Initiated and LOD Completed	x	x		x	x	x	x	x				x	x	x	x						x	x
Number of illnesses/injuries resolved	x	x	x	x	x	x	x	x				x	x	x	x					x	x	x
Number of cases referred to VA for care	x	x		x								x	x	x	x					x	x	x
Number of cases referred to DES	x		x	x				x				x	x	x	x	x				x	x	x
Number of cases with early referral to DES	x	x	x	x				x				x	x	x	x	x		x	x	x	x	x
Duration between LOD Initiated/Completed and RTD/DES Referral	x	x		x	x	x	x	x				x	x	x	x	x					x	x
Duration between DES Referral and DES Final Resolution	x	x		x	x	x	x	x				x	x	x	x	x	x	x	x		x	x
Length of time on MEDCON orders	x	x	x	x	x	x	x	x				x	x	x	x						x	x
Number of MEDCON days obligated	x	x		x								x	x	x	x					x	x	x
Dollar amount of MEDCON orders obligated	x	x		x								x	x	x	x					x	x	x

Attachment 8

MEDCON DAYS REQUEST, VALIDATION, APPROVAL, CERTIFICATION AND ALLOCATION PROCESS.

Figure A8.1. MEDCON Days Request, Validation, Approval, Certification and Allocation Process.

