National Capital Region Medical Directorate

ADMINISTRATIVE INSTRUCTION

NATIONAL CAPITAL REGION MEDICAL

NUMBER 1120.02

AUG 15 2014

PERS

SUBJECT: Off Duty Employment (ODE) and Outside Activities

References: See Enclosure 1

1. PURPOSE. This Administrative Instruction (AI), based on the authority of References (a) through (c), cancels Reference (e), and is reissued herein. This AI implements policy and prescribes procedures in accordance with (IAW) References (f) through (t). All off-duty remunerative (paid) employment must be approved officially for all military and government civilian personnel assigned to or employed by the National Capital Region Medical Directorate (NCR MD), Walter Reed National Military Medical Center (WRNMMC), Fort Belvoir Community Hospital (FBCH), and the Joint Pathology Center (JPC). Other personal or non-paid activities should be considered in light of these restrictions. Violation of these provisions may be cause for disciplinary action under the Uniform Code of Military Justice (UCMJ) and forms the basis for appropriate disciplinary or administrative action with respect to NCR MD, Joint Medical Treatment Facility (MTF), or Center civilian employees.

2. APPLICABILITY. This AI:

a. Applies to all civilian personnel and military members assigned to or employed by the NCR MD; WRNMMC to include the DiLorenzo Clinic and the Tri-Service Dental Clinic; FBCH to include the Dumfries and Fairfax Clinics; and the JPC. Hereafter, these facilities are collectively referred to as Joint MTFs and Centers.

b. For contract employees, their contracts dictate the terms of their relationships with the Federal Government.

c. Does not apply to the provision of emergency medical assistance in isolated cases.

3. POLICY. All NCR MD, Joint MTF, and Center personnel will understand the ethical and regulatory provisions involved with ODE and outside activities. Those who meet the definition of healthcare provider must have written permission to engage in ODE. This is for all ODE, whether it involves the provision of healthcare or not. All NCR MD, Joint MTF, and Center employees who file financial disclosure forms (Forms 278 or 450) must also obtain written permission to engage in ODE whether or not they are healthcare providers IAW

Reference (i) and section 3601.107 of Reference (p). All NCR MD, Joint MTF, and Center employees will comply with this AI with respect to outside personal activities and speaking/writing/teaching provisions. Subject to the limitations contained herein, NCR MD, Joint MTF, or Center employees normally will not be restrained from engaging in ODE or outside activities. Requests for deviation from the limits imposed by this AI by sister Service members may be submitted to the Joint MTF and Center Directors.

4. RESPONSIBILITIES. See Enclosures 2 through 4.

5. PROCEDURES. See Enclosures 5 through 15.

6. RELEASABILITY. **Cleared for public release**. This AI is available on the Internet from the NCR MD Website at www.capmed.mil.

7. EFFECTIVE DATE. This AI:

a. Is effective upon publication to the NCR MD Website; and

b. Will expire 10 years from the publication date if it hasn't been reissued or cancelled before this date in accordance with DoD Instruction 5025.01 (Reference (d)).

R. C. BONO
RDML, MC, USN
Director

Enclosures:
As stated

TABLE OF CONTENTS

ENCLOSURE 1: REFERENCES 5

ENCLOSURE 2: RESPONSIBILITIES 6

JOINT MTF AND CENTER DIRECTORS 6
DIRECTORS OF THE SERVICES 6
DEPARTMENT HEADS 7
SERVICE CHIEFS 7
AIR FORCE ELEMENT/ARMY COMPANY COMMANDER/NAVY ELEMENT 7
ALL EMPLOYES SEEKING ODE AND OUTSIDE ACTIVITIES 7
HEALTHCARE PROVIDERS 9
OFFICES RESPONSIBLE FOR MAINTAINING ODE APPLICATIONS, MONTHLY REPORTS, AND ANNUAL CERTIFICATIONS. 10
SERVICING LEGAL OFFICE 10
HEALTH EDUCATION AND TRAINING 10
ECONS/ECOMS/MEDICAL STAFF AND PRIVILEGING OFFICES 10
THE HEAD, COMMAND EVALUATION AND INVESTIGATION 10

ENCLOSURE 3: PROCEDURES: APPLICABLE FOR HEALTHCARE PROVIDERS 11

GENERAL PROCEDURES FOR HEALTHCARE PROVIDERS. 11
AUTHORIZATION PROCEDURES. 13
REPORTS. 13

ENCLOSURE 4: PROCEDURES: APPLICABLE FOR NON-HEALTHCARE PROVIDERS WHO REQUIRE FINANCIAL DISCLOSURE 14

ENCLOSURE 5: PROCEDURES: APPLICABLE FOR NON-HEALTHCARE MILITARY MEMBERS (OFFICERS AND ENLISTED) WHO DO NOT REQUIRE FINANCIAL DISCLOSURE 15

ENCLOSURE 6: PROCEDURES: CIVILIAN, NON-HEALTHCARE PROVIDERS OR FINANCIAL DISCLOSURE FILERS 16

ENCLOSURE 7: SPECIAL PROVISIONS: OUTSIDE SPEAKING, TEACHING, AND WRITING ENGAGEMENTS 17

ENCLOSURE 8: SPECIAL PROVISIONS: PERSONAL OUTSIDE SPEAKING, TEACHING, AND WRITING ENGAGEMENTS 19

ENCLOSURE 9: SAMPLE IN-PROCESSING STATEMENT FOR ODE 20

ENCLOSURE 10: SAMPLE ODE REQUEST ACKNOWLEDGMENT FORM 21

ENCLOSURE 11: SAMPLE ODE REQUEST (HEALTHCARE PROVIDERS) 22

ENCLOSURE 12: ODE REQUEST (NON-HEALTHCARE PROVIDERS) 25

ENCLOSURE 13: SAMPLE CIVILIAN EMPLOYER'S ACKNOWLEDGEMENT LETTER 28

ENCLOSURE 14: SAMPLE MONTHLY ODE REPORT 30

ENCLOSURE 15: SAMPLE ANNUAL ODE STATEMENT 31

GLOSSARY 32
PART I. ABBREVIATIONS AND ACRONYMS 32
PART II. DEFINITIONS 32

ENCLOSURE 1

REFERENCES

(a) Deputy Secretary of Defense Action Memorandum, "Implementation of Military Health System Governance Reform," March 11, 2013
(b) DoD Directive 5136.13, "Defense Health Agency (DHA)," September 30, 2013
(c) National Capital Region (NCR) Medical Directorate Concept of Operations, September 10, 2013
(d) DoD Instruction 5025.01, "DoD Issuances Program," June 6, 2014
(e) JTF CapMed Instruction 1120.02, "Off-Duty Employment (ODE) by Healthcare Practitioners," July 27, 2011 (hereby cancelled)
(f) Sections 5533 to 5536 of Title 5, United States Code
(g) Section 1102 of Title 10, United States Code
(h) DoD Manual 6025.13, "Medical Quality Assurance (MQA) and Clinical Quality Management in the Military Health System (MHS)," October 29, 2013
(i) DOD 5500.07-R, "Joint Ethics Regulation," as amended
(j) Health Affairs Policy 96-050, "Policy for Off-Duty Employment by DoD Health Care Practitioners," July 23, 1996
(k) ASD(HA) policy 97-019, "Policy Memorandum: ODE by DoD Dental Care Providers," December 10, 1996[1]
(l) National Capital Region Medical Directorate Instruction 5030.01, "Procedures for Establishing Training or Proficiency Agreements," December 5, 2013
(m) DoD Instruction 1334.01, "Wearing of the Uniform," October 26, 2005
(n) Sections 203, 205, 208, 209 of Title 18, United States Code
(o) Sections 2635.203, 2635.502, 2635.703, 2635.802, 2635.805, 2635.807, and 3601.107 of Title 5, Code of Federal Regulations
(p) Section 3.601 of Federal Acquisition Regulation
(q) DoD 1400.25-M, "Department of Defense Civilian Personnel Manual," December 1996 as amended
(r) DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 13, 1988 as amended
(s) DoD Directive 5405.2, "Release of Official Information in Litigation and Testimony by DoD Personnel as Witnesses," July 23, 1985 as amended
(t) DoD Directive 5230.09, "Clearance of DoD Information for Public Release," August 22, 2008 as amended

[1] This reference can be found at the following website: http://health.mil/~/media/MHS/Policy%20Files/Import/97-019.ashx

ENCLOSURE 2

RESPONSIBILITIES

1. JOINT MTF AND CENTER DIRECTORS. The Joint MTF and Center Directors will:

a. Authorize ODE, only in accordance with this AI, upon written request of healthcare providers when such activities do not interfere with the provision of healthcare services or mission accomplishment, and document approval to engage in ODE in writing. Directors will consider factors such as hours worked per week, work site proximity, travel time, and impact on civilian communities and providers when reviewing requests for ODE.

b. Ensure sufficient active duty military personnel and civilian healthcare providers are available to provide services to military beneficiaries, 24 hours a day, 7 days a week. When granting permission for ODE to healthcare providers, the Director will review clinic access standards and provider productivity metrics and use his or her best judgment when evaluating these two measures and determining if ODE should be approved.

c. Grant exceptions for more than 16 hours ODE per week only when fully justified in writing by the applicant and when circumstances clearly show that the additional hours will not adversely affect Government duties.

d. Withdraw permission for ODE at any time the Director determines that such employment is inconsistent with this AI or its references. If permission is withdrawn, the affected individual may submit a written request through the chain of command for reconsideration to the Director.

e. Ensure there is an annual review of the healthcare provider's compliance with applicable policy and regulatory guidance for ODE by all healthcare providers.

f. Process all ODE requests by Joint MTF and Center employees who are financial disclosure filers for approval/disapproval.

g. Ensure that the appropriate officials at all civilian places of employment are immediately notified whenever permission for ODE is withdrawn.

2. SERVICE "DIRECTORS FOR". The Service "Directors For" will:

a. Review and coordinate on all requests for ODE. For ODE requests involving healthcare providers that wish to engage in off-duty healthcare, they are to consider factors such as hours worked per week, work site proximity, travel time, and impact on civilian communities and providers when reviewing.

b. Receive monthly reports and annual certification of compliance.

3. DEPARTMENT HEADS. Department Heads will:

a. Review and coordinate on all requests for ODE. For ODE requests involving healthcare providers that wish to engage in off-duty healthcare, consider factors such as hours worked per week, work site proximity, travel time, and impact on civilian communities and providers.

b. Receive monthly reports and annual certification of compliance.

c. Process for approval/disapproval ODE requests by NCR MD, Joint MTF, or Center officers and enlisted staff who are not healthcare providers and not financial disclosure filers.

4. SERVICE CHIEFS AND FIRST-LINE SUPERVISORS. Service Chiefs and First-Line Supervisors will:

a. Review and coordinate on all requests for ODE. For ODE requests involving healthcare providers that wish to engage in off-duty healthcare, consider factors such as hours worked per week, work site proximity, travel time, and impact on civilian communities and providers.

b. Receive, review, and monitor monthly reports and annual certification of compliance.

5. AIR FORCE ELEMENT/ARMY COMPANY COMMANDER/NAVY ELEMENT. Service elements and company commands will:

a. Review and coordinate on all requests for ODE. For ODE requests involving healthcare providers that wish to engage in off-duty healthcare, they are to consider factors such as hours worked per week, work site proximity, travel time, and impact on civilian communities and providers when reviewing.

b. These elements and commands approve ODE requests by military personnel who are not healthcare providers and not financial disclosure filers, and for enlisted members. These individuals maintain a copy of ODE packages for all military personnel.

6. ALL EMPLOYES SEEKING ODE AND OUTSIDE ACTIVITIES. Employees, whether or not they are healthcare providers or financial disclosure filers, will:

a. Follow the provisions of this AI and applicable enclosures, depending on employment status and work at NCR MD, a Joint MTF, or Center.

b. Understand that the government assumes no responsibility for the individual's actions with respect to ODE or outside activities.

c. Understand that they may not:

(1) Subject the Federal Government to any expense as a result of this activity or employment; or

(2) Use Government materials, equipment, or other personnel in connection with this activity or employment.

d. Understand that generally, they may not do anything which implies DoD endorsement of the outside employment or activity. For instance, they may not refer to their official position at the NCR MD, a Joint MTF, or Center to endorse commercial products or businesses or in relation to their outside employment or activities.

e. Understand that it is DoD policy that the wearing of the uniform is prohibited during or in connection with furthering private employment or commercial interests, when an inference of official sponsorship of the activity or interest can be drawn (Reference (m)).

f. Not provide opinion or expert testimony concerning official DoD information, personnel, or activities without proper authorization coordinated through the servicing Legal Office. In private litigation, they may discuss the treatment of their patients, but must not respond to hypothetical questions or requests for expert opinions (References (s) and (t)).

g. Avoid conflicts of interest. See also sections 2635.502 and 2635.802 of Reference (o).

(1) Per section 208 of Reference (n), there are potential federal criminal provisions for commissioned military officers or Federal civilians who violate the statutes on financial conflicts of interest. There is a similar regulatory provision that applies to enlisted military personnel in Reference (i), which means that enlisted members may face disciplinary action per the UCMJ. See also section 209 of Reference (n).

(2) When an employee is working on a particular project as part of official duties, the employee should not have any type of outside business relationship with any company involved on that particular project (including as a consultant), unless (a) the employee has informed his/her supervisor about the situation, and (b) the supervisor has determined that the need for the employee to work on the official project outweighs the appearance problems (Reference (i)). The supervisor needs to consult the servicing Legal Office for assistance.

h. Be highly discouraged from working as a Government contractor in any Government facility. Besides the administrative challenges of timekeeping and record keeping, there are federal criminal statutes (sections 203 and 205 of Reference (n)) concerning representational bans where an employee wishes to engage in ODE with a company and then represent that company back to the Government. Additionally, many Government contractors preclude current Government employees from working back in the Government facility.

i. Understand they are subject to a dual compensation ban. That means they cannot receive any salary, or any contribution to or supplementation of salary, as compensation for his or her services to the Federal Government, from any source other than the Federal Government. See References (f), (i), and section 209 of Reference (n).

j. Seek prior approval for ODE done during periods of regular leave and terminal leave. Commissioned officers on transition leave are prohibited from working for Government contractors in Government workspaces until the officer's actual retirement date because this constitutes inappropriate representation of an outside organization to the Government. See sections 203 and 205 of Reference (n).

k. Understand that they may not disclose "non-public information" to further the private interests of any individual, company or organization. As defined in section 2635.703 of Reference (o), "non-public information" is "information that the employee gains by reason of Federal employment and that they know (or reasonably should know) has not been made available to the general public."

l. Understand that they may not serve, in their official capacity, on an advisory board or advisory committee for a defense contractor (Reference (i)). Employees who are considering serving as an advisor to a defense contractor in their personal capacity need to consult the ethics counselor in the servicing Legal Office beforehand.

m. Understand that Reference (p) generally prohibits the Government from awarding a contract to an employee or to a business concern or other organization owned or substantially owned or controlled by one or more government employees.

n. Sign an acknowledgement during orientation that they understand the rules regarding obtaining prior permission to engage in ODE IAW this AI.

7. HEALTHCARE PROVIDERS. All healthcare providers desiring ODE, regardless of financial disclosure requirements, will:

a. Submit a written request IAW the procedures outlined in enclosure 3 of this AI.

b. Not assume responsibility for the medical or dental care of any patient on a continuing basis or engage in private (solo) practice, due to potential conflicts with Government obligations.

c. Not make referrals from his or her DoD practice setting to his or her ODE practice setting.

d. Submit their hours to their direct supervisor within 10 days of the beginning of each month for the previous month's work. WRNMMC staff should insert these hours on the ODE SharePoint site found here: https://www.wrnmmc.intranet.capmed.mil/CoS/Lists/WRNMMC%20Weekly%20OffDuty%20Employment%20Report/NewForm.aspx. For all others, the monthly report will be submitted IAW with the format in Enclosure 14 and signed by the employee.

e. Abide by the Service provisions, if applicable, to the employee as outlined in section 5 of this enclosure.

f. Submit an annual report of compliance IAW Enclosure 15.

8. MEDICAL STAFF OFFICE. The Medical Staff Office at the NCR MD, Joint MTF, or Center is responsible for maintaining ODE applications, monthly reports, and annual certifications.

9. SERVICING LEGAL OFFICE. The servicing Legal Office will:

a. Provide guidance and advice on ODE issues and review applications.

b. Maintain financial disclosure filer documentation (and who is not a healthcare provider).

10. HEALTH EDUCATION AND TRAINING. Health Education and Training will ensure that all employees complete Enclosure 9 while in-processing.

11. EXECUTIVE COMMITTEE OF THE NURSING STAFF (ECONS), EXECUTIVE COMMITTEE OF THE MEDICAL STAFF (ECOMS), AND MEDICAL STAFF AND PRIVILEGING OFFICES. The ECONS, ECOMS, and Medical Staff and Privileging Offices will:

a. Monitor monthly reports.

b. Monitor annual verifications.

c. Conduct random audits.

d. Promptly notify the service chief if any discrepancies are noted with compliance of this AI.

12. THE HEAD, COMMAND EVALUATION AND INVESTIGATION. This Office will conduct an annual review of the ODE activities of NCR MD, Joint MTF, and Center personnel to ensure compliance with the provisions delineated in this AI and will address the adequacy of existing internal controls.

ENCLOSURE 3

PROCEDURES: APPLICABLE FOR HEALTHCARE PROVIDERS

1. GENERAL PROCEDURES FOR HEALTHCARE PROVIDERS

a. Engaging in ODE is a privilege, not a right. Permission to engage in ODE may be withdrawn at any time by the Director. However, if the ODE, in compliance with this AI and cited references, does not interfere with the provision of healthcare, and does not interfere with accomplishing the mission, it may be approved.

b. Permission shall be withdrawn when privileges are put into abeyance or summary suspension or when removed from clinical practice. If permission is withdrawn, the individual affected will be afforded an opportunity to submit to the Director a written statement containing information pertinent to the questioned employment.

c. If interested in engaging in ODE at more than one location, the individual must submit complete justification with his/her application. A new application is required for each ODE site for individuals who have been previously approved to engage in off-duty work.

d. Active duty military are in a 24-hour duty status and must be available to perform assigned duties at all times. Military duties shall take precedence over ODE. Civilian healthcare providers must be available to perform their Federal Government duties during their prescribed working hours. All must advise their potential off-duty employers that they will be subject to respond to NCR MD, Joint MTF, or Center alerts or emergencies that may arise during their periods of ODE. This may delay the individual in reporting for ODE or could require the individual to leave the ODE without warning.

e. Absent a waiver from the cognizant Directorate Head, no active duty employee will be granted permission to engage in ODE unless they meet current physical readiness or physical fitness requirements.

f. ODE shall not exceed a total of 16 hours per week unless in an authorized leave status. Hours worked while on leave will not count toward the weekly 16 hours, but they also must be reported.

g. Supervisors will not grant permissive temporary duty, pass, or compensatory time off for the primary purpose of engaging in ODE. Ordinary leave may be granted in connection with authorized ODE. There shall be a period of at least 9 hours rest between ending an ODE work shift and beginning military or civilian employee duties.

h. Hours actually worked while "on call" or on "pager watch" will count against the 16 hours per week maximum, and there still must be 9 hours between the end of being "on call" or on a "pager watch" and the start of working at the NCR MD, Joint MTF, or Center.

i. Requests to engage in ODE that require in excess of 2 hours driving time will not be approved unless the requester is seeking permission to work during an authorized leave period.

j. Employees engaged in graduate training programs are prohibited from engaging in any ODE. Violation of this prohibition may result in disciplinary action and disenrollment from the training program.

k. Military healthcare providers will not engage in a personal private medical practice and shall not assume primary responsibility for the medical or dental care of any patient on a continuing basis at the off-duty site except if they are on terminal leave. This will inevitably result in compromise of the responsibilities to the patient or the primacy of obligations to the Government. Civil service healthcare providers are not, per se, prohibited from engaging in a personal private medical practice or assuming primary responsibility of a patient. However, they must recognize that their primary responsibilities are with their service to the Federal Government, which may affect the care they provide to patients they see at the ODE location.

l. Any healthcare provider wishing to engage in ODE must receive permission on an annual basis. The renewal requests are due by the end of January, along with the annual certification of compliance.

m. Healthcare providers cannot refer beneficiaries seen pursuant to their official duties to facilities with which the provider maintains an ODE relationship.

n. Compliance with applicable local, state, or Federal regulations (particularly those of the Federal Drug Enforcement Administration; Medicare, such as with Provider Enrollment Chain and Ownership System (PECOS) numbers; and other Federal agencies) is the responsibility of the individual health care provider. ODE is not within the scope of any NCR MD, Joint MTF, or Center health care provider's official duties or responsibilities. Accordingly, Federal law provides no personal liability protection for healthcare providers while engaged in ODE. Healthcare providers engaged in authorized ODE are strongly encouraged to obtain appropriate professional liability insurance.

o. Healthcare providers will apply for annual leave for any obligation (e.g., court appearances or testimony before a compensation board) arising out of ODE where these obligations require absence during duty hours. There is no guarantee leave will be granted, but it may be if the leave does not interfere with the healthcare provider's responsibilities at the NCR MD, Joint MTF, or Center.

p. Healthcare providers engaged in ODE should not interfere or unfairly compete with local civilian healthcare providers. The approval authority must assess the ODE local impact, taking into consideration assessment statements from the employer, local medical or dental society, and the healthcare provider when deciding the impact level.

q. The NCR MD, Joint MTFs, and Centers affiliate with certain civilian facilities through memoranda of understanding (MOU) to provide additional opportunities for training, skills proficiency, and professional growth (Reference (l)). Any healthcare provider who performs at a facility under an MOU may not also partake in off-duty civilian employment at the same facility.

2. AUTHORIZATION PROCEDURES

a. All healthcare providers seeking permission to engage in ODE involving healthcare activities shall submit Enclosures 10, 11, and 13, which will go through the chain of command, the servicing Legal Office, and then to the respective facility director. For military healthcare providers, the request will also be routed through their respective Service Element or Army Troop Command.

b. All healthcare providers seeking permission to engage in ODE that does not involve healthcare activities shall submit Enclosures 10 and 12, which will go through the same routing. If the ODE involves infrequent speaking, teaching, or writing engagements, follow enclosure 7 and obtain publication clearance, not the provisions in this paragraph. If the speaking, teaching, or writing is more regular (for instance, teaching a semester's class at a local college), submit Enclosures 10 and 12.

c. A separate application package is required for each prospective employer. If the proposed employment will occur at multiple locations, each location will be noted on the request. Any changes in the status of an individual's ODE shall be reported to his or her Service chief. If there has been no change to the ODE (meaning, no change in terms of employer, location, or hours of work), annual renewal requests need only include Enclosures 11 or 12.

3. REPORTS

a. All who engage in ODE of any kind are responsible for submitting their hours to their direct supervisor within 10 days of the beginning of each month for the previous month's work. WRNMMC staff should insert these hours on the ODE SharePoint site found here: https://www.wrnmmc.intranet.capmed.mil/CoS/Lists/WRNMMC%20Weekly%20OffDuty%20Employment%20Report/NewForm.aspx. For all others, the monthly report will be submitted IAW the format in Enclosure 14 and signed by the employee. Once ODE privileges are approved, this monthly report must be submitted even if no hours were worked in a particular month.

b. Employer verification will be obtained by random telephone audit of off-duty employers. Failure to make timely submissions is grounds for revocation of ODE privileges and may lead to disciplinary or administrative action.

c. All healthcare providers who engage in ODE of any kind must certify their compliance annually with applicable policy and regulatory guidance. The annual renewal package should be submitted using the same details from the original application of ODE by the end of January. Enclosure 15 provides the appropriate format.

d. Whenever there is a change in the ODE status, the healthcare provider must update the paperwork before the inception of such a change.

ENCLOSURE 4

PROCEDURES: APPLICABLE FOR NON-HEALTHCARE PROVIDERS WHO REQUIRE FINANCIAL DISCLOSURE

1. Reference (i) and section 3601.107 of Reference (o) require financial disclosure filers to get approval before engaging in ODE. This enclosure is only for those financial disclosure filers who are not healthcare providers and otherwise have to follow Enclosure 3.

2. These individuals will use Enclosures 10 and 12 to request authorization of ODE.

3. Route Enclosures 10 and 12 to the immediate supervisor, Service chief, department chief, director of service, and the servicing Legal Office.

4. These individuals will not need to make monthly reports.

5. The financial disclosure forms submitted must reflect the ODE and the ethics counselor in the servicing Legal Office must be consulted if there are any questions. These forms are filed annually by mid-February, and they will be the documentation to reflect any annual certification. Therefore, these individuals will not need to make annual certifications.

AUG 15 2014

ENCLOSURE 5

PROCEDURES: APPLICABLE FOR NON-HEALTHCARE MILITARY MEMBERS (OFFICERS AND ENLISTED) WHO DO NOT REQUIRE FINANCIAL DISCLOSURE

1. Officers and enlisted members who are not healthcare providers or financial disclosure filers may still have Service-level requirements for obtaining permission before engaging in ODE. Contact the respective Service Element or Army Troop Command for the process or procedure.

2. Active duty enlisted members may be employed as part-time or flexible employees during off-duty hours in DoD non-appropriated fund instrumentalities (References (q) and (r)).

3. If the ODE involves the provision of healthcare (for instance, an enlisted member wants to perform ODE as an emergency medical technician), the Service Element or Army Troop Command may still desire that the individual comply with the provisions here for outside healthcare activities.

4. If the ODE involves outside speaking, teaching, or writing, these individuals must still follow Enclosure 7 and their facility publication approval process.

5. Approval and recordkeeping would be through the Service Element or Army Troop Command.

ENCLOSURE 6

PROCEDURES: CIVILIAN, NON-HEALTHCARE PROVIDERS OR FINANCIAL DISCLOSURE FILERS

1. Civilian employees who are not healthcare providers or financial disclosure filers must still follow rules and regulations that are discussed in this AI in enclosure 2 (applicable for all employees); Enclosure 7 and obtain publication clearance (outside speaking, teaching, writing); Enclosure 8 (outside personal activities); and Enclosure 9 (in-processing acknowledgement).

2. Employees who are not engaged in the provision of healthcare are encouraged, but not required, to inform their immediate supervisor of their ODE. Circumstances, however, could change. For instance, if an employee changes positions and becomes a financial disclosure filer, that individual would then need to comply with Enclosure 4 to request ODE.

3. Employees who are not engaged in the provision of healthcare, but who wish to seek ODE may contact the servicing Legal Office for assistance, if needed.

ENCLOSURE 7

SPECIAL PROVISIONS: OUTSIDE SPEAKING, TEACHING, AND WRITING ENGAGEMENTS

1. This enclosure outlines requirements for getting permission to speak, write, or teach on an infrequent basis and applies to any employee, military and civilian, whether or not engaged in healthcare or a financial disclosure filer. If the speaking, writing, or teaching is on a regular basis (for example, teaching a semester's class at a local college), follow Enclosures 10 and 12 for obtaining permission for ODE. Employees may speak, teach, and write for publication. However, if the teaching, speaking, or writing relates to the employee's official duties, as defined in the glossary, the employee cannot receive compensation from any source other than the Government for the outside speech, training, or writing.

2. Employees are required to submit any proposed talk, article, or publication through the publication clearance process at their facility. If the employee receives pay for the speaking, teaching, or writing engagement, the employee must specifically disclose this information when submitting the publication for clearance.

3. An employee can receive compensation for teaching, speaking or writing on a subject within the employee's discipline or inherent area of expertise based on his or her educational background or experience even though the teaching, speaking, or writing deals generally with a subject within the agency's areas of responsibility (Reference (o)). For instance, a general surgeon can still receive compensation from an outside source for giving a talk on general surgery, so long as the talk is just about general surgery and does not relate to the employee's official duties, as defined in the glossary.

4. In some circumstances, an employee may be able to conduct outside teaching even though it relates to the employee's official duties. In these instances, an employee may accept compensation for teaching a course, even if it requires multiple presentations, so long as the course is offered as a part of a regularly established curriculum of an institution of higher education, an elementary school, a secondary school, or an education or training program sponsored by a local, state, or the Federal Government. An employee may not accept compensation when either:

a. The circumstances indicate that the invitation to engage in outside teaching was extended to the employee primarily because of his official position rather than his expertise on the particular subject matter; or

b. The subject of the activity deals in significant part with any matter to which the employee presently is assigned or to which the employee had been assigned during the previous one-year period; or any ongoing or announced policy, program, or operation of the agency.

5. If one performs outside teaching, speaking, or writing, the employee shall not use or permit the use of official title or position to identify the employee in connection with the outside teaching, speaking, or writing activity or to promote any book, seminar, course, program, or similar undertaking. However, per Reference (i):

a. An employee can include his/her title or position as part of biographical information, but it cannot take any more prominence than other biographical details; and

b. The title or position may be used in connection with an article published in a scientific or professional journal so long as there is a reasonably prominent disclaimer that states that the views expressed in the article do not necessarily represent the views of DoD or the United States.

6. Employees may not use normal duty hours or DoD facilities, property, or personnel to prepare for an outside teaching, speaking, or writing event (Reference (i)). They are prohibited from using official DoD information generally not available to the public and which would not be released under Federal law.

ENCLOSURE 8

SPECIAL PROVISIONS: OUTSIDE PERSONAL ACTIVITIES (NO REMUNERATION)

1. Employees who wish to participate in outside activities for no remuneration (i.e., volunteering or no pay) are encouraged to seek additional guidance from the servicing Legal Office to make certain they are complying with all rules of ethical behavior.

2. Whether or not the individual needs to be in a leave status when participating in these outside personal or volunteer activities will be determined on a case-specific basis.

3. Generally, when employees engage in an unpaid outside activity where there is no connection to the employee's duties to and at the NCR MD, the Joint MTF, or Center, the employee is likely not considered a Federal employee for purposes of portability of licensure and liability protection. Employees are prohibited from using any Government-provided activity (Drug Enforcement Agency number, PECOS number, etc.).

4. Employees must comply with Service-specific requirements involved with outside personal activity. If traveling out of the country, employees need to obtain country clearance.

ENCLOSURE 9

SAMPLE IN-PROCESSING STATEMENT FOR ODE

MEMORANDUM FOR DIRECTOR, WRNMMC [This will vary based on the facility.]

SUBJECT: In-processing Statement for Off-Duty Employment (ODE)

I am aware of NCR MD-AI 1120.02 and understand that before I begin any ODE, I will obtain approval. I also understand that if I engage in any ODE, I must review and comply with appropriate regulations and policies. Failure to do either subjects me to potential adverse action.

I further acknowledge my understanding that:

a. Active duty officers, warrant officers, enlisted personnel, civilian healthcare provider, and equivalent personnel will not engage in ODE without command approval.

b. Military personnel who fail to obtain command approval prior to engaging in ODE or who do not fully comply with the provisions of appropriate regulations, are subject to punishment under the Uniform Code of Military Justice (UCMJ) as well as possible adverse administrative action.

c. Personnel not subject to the UCMJ who fail to obtain directorate approval are subject to adverse administrative action or criminal prosecution as authorized by applicable sections of the United States Code or Federal regulations.

Upon application for ODE, I understand that I must arrange an interview with my Director, to discuss and review requirements and policies applicable to ODE.

_____ _____
(Signature) (Date)

_____
(Printed Name)

_____
(Grade)

ENCLOSURE 10

SAMPLE ODE REQUEST ACKNOWLEDGMENT FORM

This form will be completed and signed by all staff personnel requesting permission to engage in ODE, regardless of the nature of such employment.

I hereby acknowledge that I have been notified of and have had available to me the NCR MD-AI 1120.02. I am aware and have knowledge of the contents of this AI and understand that any action by me that violates or is contrary to the provisions of the AI may result in disciplinary action in accordance with the UCMJ, or the appropriate administrative or employment actions.

CONSENT AND RELEASE FROM LIABILITY:

I authorize the NCR MD / WRNMMC / FBCH / INSERT OTHER and their legal representatives, for the purpose of overseeing my off-duty employment (ODE), to contact and receive copies of all records, documents, and information concerning my ODE from my employer. This includes, but is not limited to, all pay records, IRS reports, logs, time sheets, Quality Assurance Reports, and credentialing matters.

I release from liability all individuals and organizations who respond to inquiries regarding my ODE.

_____ _____

Signature Date

FOR HEALTH CARE PROVIDERS, ADD:

I hereby acknowledge that I am aware that when I engage in ODE for pay or remuneration, I do this apart from my assigned government duties. I also am aware and acknowledge that in the ODE, I will not be working for the United States Government and, therefore, will not be covered for medical malpractice liability under 10 United States Code, Section 1089 ("Gonzales Act") or any other statute or regulation. Any claim or lawsuit involving an allegation of medical malpractice on my, or my employer's behalf will be my, or my employer's sole responsibility and not that of the United States Government.

_____

Requesting Provider/Date

ENCLOSURE 11

SAMPLE ODE REQUEST (HEALTHCARE PROVIDERS)

Section A.

From: _____
(Last, First, Mi.
Rank/Grade)

To: Director, NCR MD / WRNMMC / FBCH / INSERT OTHER

Ref: (a) NCR MD-AI 1120.02, "Off Duty Employment (ODE) and Outside Activities"

1. Per the above reference and its references, I request permission to engage in off-duty employment (ODE).

a. Are you currently engaged in ODE? Y/N If so, provide the employers information.

_____
_____

b. My proposed employer is:

_____

c. My proposed worksite is located at:

_____

d. My proposed worksite telephone number is:

_____

e. My proposed duties will include:

_____
_____
_____

f. I believe the impact my ODE will have on the local community is (explain how it will benefit or otherwise effect the civilian community and providers and/or attach a statement from the local professional society):

_____
_____
_____
_____

g. I will submit not later than the 10th of each month a report detailing the number of hours worked during the previous month to the WRNMMC ODE SharePoint site (https://www.wrnmmc.intranet.capmed.mil/CoS/Lists/WRNMMC%20Weekly%20OffDuty%20Employment%20Report/NewForm.aspx) [This will change dependent upon the facility

requirements] and my direct supervisor. Employer verification will be obtained by random telephone audits. I also understand that it is my obligation to inform my chain of command in writing of any change in my proposed ODE, as set forth in this memorandum, before the inception of such change. I must annually certify my compliance with these rules and regulations.

2. I acknowledge the following limitations on my ODE and have explained them to my proposed employer:

a. The site of my ODE must be located within 2 hours travel time, by land, of the site of my military duties.

b. The total hours worked per week in a duty status must not exceed 16 without specific approval. There shall be a period of at least 9 hours rest between ending an ODE work shift and beginning duties at my assigned Joint MTF or Center.

c. As part of my ODE, I must not assume primary responsibility for the medical or dental care of any patient on a continuing basis or engage in a personal private medical practice if I am on active duty.

d. My ODE must not be performed on military premises; involve expense to the Federal Government; or involve use of military personnel or supplies.

e. As a military member, I may be required to respond immediately to calls for military duty.
or
As a civilian officer equivalent healthcare provider, I may be required to respond immediately to calls for duty. My obligation for such recall is as follows:

_____

_____

f. I may not use other Government resources, equipment, or employees in the performance of my ODE, to include that I cannot use any official photos, Government-provided computers/phones/Blackberries, and my Government contact information. In biographies, I can use my military work, but cannot indicate what my current position is at NCR MD / WRNMMC / FBCH / INSERT OTHER. I should not receive calls from my ODE at my Government job while on Government time.

g. I am responsible for compliance with all local licensing, Drug Enforcement Agency, PECOS number, and personal medical liability coverage requirements.

h. I must take annual leave for any obligations (e.g., court appearances or testimony before a compensation board) arising out of ODE when these obligations require absence during duty hours. There is no guarantee that the leave request will be approved by my command.

i. I must not refer patients from the MTF or Center to my prospective employer's facility.

_____
Signature Date

. . . . . .

Section B.

From: Authorized Representative of Proposed Employer
To: Director, NCR MD / WRNMMC / FBCH / INSERT OTHER

Subj: ODE OF

_____

1. I am the authorized representative of:

_____

2. I have read and accept the foregoing limitations, including the compensation and availability limitations, on the ODE of:

_____

_____
(Name/Title/Date)

. . . . . .

Recommend approval/disapproval Recommend approval/disapproval

_____ _____
Name/Grade of Immediate Supervisor & Date Name/Grade of Department Head & Date

Recommend approval/disapproval Recommend approval/disapproval

_____ _____
Name/Grade, Service Element/Company Commander Date Name/Grade, SJA Office Date

. . . . . .

Section C.

From: Director, NCR MD / WRNMMC / FBCH / INSERT OTHER
To: _____

1. The above request is approved/disapproved.

_____ (Name/Date)

ENCLOSURE 12

ODE REQUEST (NON-HEALTHCARE PROVIDERS)

Section A.
From: _____
(Last, First, Mi. Rank/Grade)

To: Director, NCR MD / WRNMMC / FBCH / INSERT OTHER

Ref: (a) NCR MD-AI 1120.02, "Off Duty Employment (ODE) and Outside Activities"

1. Per the above reference and its references, I request permission to engage in off-duty employment (ODE).

a. Are you currently engaged in ODE? Y/N If so, provide the employers information._____

_____

b. My proposed employer is:

_____

c. My proposed worksite is located at:

_____

d. My proposed worksite telephone number is:

_____

e. My proposed duties will include:

_____

_____

_____

f. I do/do not have permission to engage in other ODE (state details on separate sheet, if applicable).

g. I will submit not later than the 10th of each month a report detailing the number of hours worked during the previous month to the WRNMMC ODE SharePoint site (https://www.wrnmmc.intranet.capmed.mil/CoS/Lists/WRNMMC%20Weekly%20OffDuty%20Employment%20Report/NewForm.aspx) [This will change dependent upon the facility requirements] and my direct supervisor. Employer verification will be obtained by random telephone audits. I also understand that it is my obligation to inform my chain of command in writing of any change in my proposed ODE, as set forth in this memorandum, before the inception of such change. I must annually certify my compliance with these rules and regulations. [Can be deleted for financial disclosure filers.]

2. I acknowledge the following limitations on my ODE and have explained them to my proposed employer:

a. The site of my ODE must be located within 2 hours travel time, by land, of the site of my military duties.

b. The total hours worked per week in a duty status must not exceed 16 without specific approval. There shall be a period of at least 9 hours rest between ending an ODE work shift and beginning duties at my assigned Joint MTF or Center.

c. My ODE must not be performed on military premises; involve expense to the Federal Government; or involve use of military personnel or supplies.

d. As a military member, I may be required to respond immediately to calls for military duty.
or
As a civilian officer equivalent healthcare provider, I may be required to respond immediately to calls for duty. My obligation for such recall is as follows:

_____

_____

e. I may not use other Government resources, equipment, or employees in the performance of my ODE, to include that I cannot use any official photos, Government-provided computers/phones/Blackberries, and my Government contact information. In biographies, I can use my military work, but cannot indicate what my current position is at NCR MD / WRNMMC / FBCH / INSERT OTHER. I should not receive calls from my ODE at my Government job while on Government time.

f. I must take annual leave for any obligations (e.g., court appearances or testimony before a compensation board) arising out of ODE when these obligations require absence during duty hours. There is no guarantee that the leave request will be approved by my command.

_____

Signature Date

Recommend approval/disapproval.

_____

Name/Grade of Immediate Supervisor & Date

Recommend approval/disapproval.

_____

Name/Grade of Department Head & Date

AUG 15 2014

Recommend approval/disapproval.

Recommend approval/disapproval.

_____
Name/Grade, Service Element/Company Commander & Date

_____
Name/Grade, SJA Office & Date

. . . . . .

Section B.

From: Director, NCR MD / WRNMMC / FBCH / INSERT OTHER:

_____

1. The above request is approved/disapproved.

_____ (Name/Date)

ENCLOSURE 13

SAMPLE CIVILIAN EMPLOYER'S ACKNOWLEDGEMENT LETTER

Employer:
Address:
City/State: Date:

Director [This information will vary and is only intended as a sample.]
Walter Reed National Military Medical Center
8901 Wisconsin Avenue
Bethesda, MD 20889-5600

Dear BG Clark:

SUBJECT: OFF-DUTY EMPLOYMENT (ODE)

This letter is to acknowledge the compensation and availability limitations applicable to the employment of military or civilian healthcare providers.

a. The DoD healthcare provider's ODE will be limited to 16 hours per week unless authorized by the NCR MD / WRNMMC / FBCH / INSERT OTHER. Additionally, scheduling of ODE must allow for a 9-hour rest period between the end of the ODE at the civilian healthcare facility and the beginning of military duties.

b. I understand that a DoD military healthcare provider may not assume, on a continuing basis, the primary responsibility for the medical or dental care of any patient at any off-duty civilian healthcare facility.

c. A military healthcare provider is required to respond immediately for military duties that may arise during the scheduled ODE. A civilian healthcare provider must also timely respond.

d. This healthcare facility will notify the Director/Commanding Officer of the DoD healthcare provider within 72 hours of any derogatory professional incident(s), which may occur concerning such provider.

e. A DoD healthcare provider may not refer patients from a medical treatment facility to other facilities with which the provider maintains ODE.

f. A DoD healthcare provider must comply with local licensing requirements and the requirements of the Federal Drug Enforcement Administration, and is responsible for the maintenance of personal medical liability insurance coverage.

g. A DoD healthcare provider must apply for annual leave for any obligation (i.e., court appearance or testimony before a compensation board) arising out of ODE when these obligations require absence from the military command during normal duty hours.

h. Understanding the above, [name of employer] accepts the compensation and availability limitations placed on [name of employer] and requests that he/she be permitted to engage in ODE with [name of employer].

Sincerely,

[Employer's Signature]

ENCLOSURE 14

SAMPLE MONTHLY ODE REPORT

WEEK	DUTY OR NON-DUTY STATUS	CIVILIAN EMPLOYMENT TOTAL HOURS DURING WEEK	LOCATION(S) & POINT(S) OF CONTACT TO VERIFY HOURS WITH EMPLOYER(S)
_____to_____			
_____to_____			
_____to_____			
_____to_____			
_____to_____			

Please indicate if in a duty or non-duty status at the time of your ODE.

TOTAL HOURS: _____

I verify this information is accurate and complete.

_____ _____

Print Name: Last, First, MI Signature/Date

ENCLOSURE 15

SAMPLE ANNUAL ODE STATEMENT

1. Authority. DoD 5500.07-R, "Joint Ethics Regulation," as amended

2. Principal Purposes. The information solicited is intended principally for the purpose of monitoring the ODE status of NCR MD / WRNMMC / FBCH / INSERT OTHER healthcare providers to ensure compliance with requirements imposed by higher authority and local directives.

3. Routine Uses. The information will be used within the NCR MD in order to monitor ODE.

4. Mandatory/Disclose. Disclosure of ODE status is mandatory under DoD directives. Refusal to disclose such information or providing false information will subject you to possible disciplinary or criminal proceedings.

5. Acknowledgement. I hereby acknowledge that I have been notified and will comply with the provisions of NCR MD-AI 1120.02. I am aware and have knowledge of the contents of this AI and understand that any action by me that violates or is contrary to the provisions of the AI may result in disciplinary action in accordance with the Uniform Code of Military Justice, or the appropriate administrative or employment actions.

_____ _____
LAST NAME, FIRST, MI RANK/RATE

Initial applicable paragraph:

_____ a. I am presently participating in ODE and have an approved request for such ODE on file.

OR

_____ b. I am not presently participating in ODE. I acknowledge that prior to engaging in ODE, I must request and receive prior approval in accordance with NCR MD-AI 1120.02.

_____ _____
SIGNATURE DATE

_____ _____
PRINTED NAME PHONE #

_____ _____
PAGER # DEPT

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AI	Administrative Instruction
ECONS	Executive Committee of the Nursing Staff
ECOMS	Executive Committee of the Medical Staff
FBCH	Fort Belvoir Community Hospital
IAW	in accordance with
JPC	Joint Pathology Center
MOU	memoranda of understanding
MTF(s)	Medical Treatment Facility/Facilities
NCR MD	National Capital Region Medical Directorate
ODE	Off Duty Employment
PECOS	Provider Enrollment Chain and Ownership System
UCMJ	Uniform Code of Military Justice
WRNNMC	Walter Reed National Military Medical Center

PART II. DEFINITIONS

Employee. This term includes: DoD civilian, officers, or employees, including non-appropriated fund activities; active duty regular or reserve military officer, including warrant officers; any active duty enlisted member; Public Health Service officers; and any Reserve or National Guard member on active duty under orders issued pursuant to title 10, United States Code (Reference (g)).

Compensation. Reference (o) states this includes any kind of income, remuneration, or consideration, including royalties. It includes offers to pay for transportation, lodgings, and meals. It does not include offers that can be accepted by the Federal Government, such as gifts of travel; items that an individual can accept from a prohibited source through the gift provisions of 5 CFR 2635; meals or other incidental expenses like waiver of attendance fees or course materials given as part of the event where the talk or speech takes place; or copies of any publications/books/tapes that provide a record of the event.

AUG 15 2014

Healthcare provider. Consistent with References (g) and (h), any military or civilian healthcare professional who is granted clinical privileges to provide healthcare services in a medical or dental treatment facility or who is licensed or certified to perform healthcare services by a governmental board or agency or professional health care society or organization. Additionally, consistent with this AI, other unlicensed technical and assistive healthcare personnel (such as x-ray technicians, nursing assistants) must obtain permission before engaging in ODE, so they will also be included in the definition of "healthcare provider" and must follow the provisions applicable to healthcare providers in this AI.

Off-duty/Outside Employment. Services by an employee during his or her off-duty time for which compensation is received. This includes self-employment.

Outside activity. Any activity not a part of the employee's official duties for which the individual receives no remuneration (pay). This includes non-remunerative community services operated by nonprofit organizations for the benefit of all community and deprived persons, such as a drug abuse program, program, venereal disease center, or family planning center. This does not include official support activities.

Official capacity. Generally, this means acting as part of a Government employee's (military or civilian) official duties.

Personal capacity. This means acting as a private citizen, not as a Government employee (military or civilian).

Relates to official duties. Reference (o) outlines this meeting one of the following criteria:

(1) The activity is undertaken as part of the employee's official duties;

(2) The circumstances indicate that the invitation to engage in the activity was extended to the employee primarily because of his official position rather than his expertise on the particular subject matter;

(3) A person who has an interest that may be affected substantially by the employee's performance or non-performance of official duties extended the invitation, directly or indirectly, to engage in the activity or the offer for compensation for the activity;

(4) The information conveyed through the activity draws substantially on ideas or official data that are nonpublic information; or

(5) The subject of the activity deals in significant part with any matter to which the employee presently is assigned; or to which the employee had been assigned during the previous one-year period; or any ongoing or announced policy, program or operation of the agency.

Self employment. A type of off-duty/outside employment that includes the sale of insurance, stocks, mutual funds, cosmetics, household supplies, vitamins, and other consumer goods and services, whether or not they are commercially manufactured or made.