



# Medical/Dental Standard of Care

Effective Date: May 6, 2014

## Purpose

The purpose of this policy is to provide direction with respect to death or disability benefit claim applications based on the error or omission of the Canadian Armed Forces (CAF) to exercise the expected medical/dental standard of care to its personnel.

## Policy

### Disclaimer

1. Veterans Affairs Canada is not a licensing body and does not have the mandate to investigate individual health care providers or institutions. This mandate lies with the College of Physician and Surgeons of each respective province or applicable regulatory body. VAC will review all evidence available to it which speaks to the holistic health care the member or Veteran received while serving in the CAF, and will make a decision regarding whether this care met the expected standard of care of the time and place. This decision is not a reflection of an individual's competency.

### Definition

2. Standard of Care: For VAC purposes, standard of care is what a minimally competent medical/dental provider in the same field would do in the same situation, with the same resources in the relevant historical context.

### General

3. The failure to meet the expected standard of care can result in a new disability, or contribute to the aggravation of an existing disability. In order to consider that a disability arose out of service, it must be demonstrated that the treatment was received in a CAF or CAF - authorized health care facility. This includes situations where a CAF member is referred to a civilian specialist by a CAF health care provider.
4. An element of risk is involved in most medical treatments. The fact that medical treatment does not have the desired result, that there are unwanted side-effects, or that earlier treatment and/or diagnosis may have led to a more favourable outcome, does not, in itself, constitute a failure to exercise the expected standard of care.

### Adjudication

5. The fundamental basis of disability benefit claims related to the failure to meet the standard of care is the principle of choice – an individual had no choice but the CAF for treatment as the individual did not have or was not eligible for provincial coverage and/or a civilian option for the provision of care was not reasonably available.
6. The evidence must demonstrate that but for the fact that the person was in the CAF and as a result failed to receive the expected standard of care of the time and place from the CAF the disability would not have developed or been aggravated.
7. The evidence must establish:
  - a. the presence of an ongoing disability;
  - b. that the expected standard of care of the particular time and place was not met;



c. that it is at least as likely as not that the unmet standard of care caused or aggravated the claimed disability; and

d. the circumstances surrounding the provided care arose out of service.

8. When the evidence establishes that the criteria noted in 7.a) to d) have been established, disability benefit entitlement may be considered.

## Decision

9. The decision will clearly state why the Department has determined that the medical/dental standard of care was, or was not, met, but without referencing specific health care providers or institutions.

## Exclusion

10. Those members of the Reserve Force who had a choice of whether to receive treatment from the CAF or civilian health care providers are not covered by this policy as any disability resulting from the medical/dental standard of care not being met cannot be said to have arisen out of service.

11. As RCMP members are treated by a doctor of their choice and there is no service constraint to use any particular medical facilities, any disability resulting from the medical/dental standard of care not being met cannot be said to have arisen out of service.

## References

*Pension Act*, section 21

*Veterans Well-being Act*, section 45; subsection 2(1)

Disability Benefits in Respect of Peacetime Military Service - The Compensation Principle

Disability Benefits in Respect of Wartime and Special Duty Service - The Insurance Principle

Disability Resulting From a Non-Service Related Injury or Disease

Pension Review Board Interpretation Ruling I-25, June 20, 1978

Pension Review Board Interpretation Ruling I-31, September 19, 1984