



01/22/201020007

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Business Registration Division
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
State of Hawaii

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
Business Registration Division
335 Merchant Street
Mailing Address: P.O. Box 40, Honolulu, Hawaii 96810
Phone No. (808) 586-2727

ARTICLES OF AMENDMENT TO CHANGE CORPORATE NAME

(Section 414D-183, Hawaii Revised Statutes)

81510 D2

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned, duly authorized officers of the corporation submitting these Articles of Amendment, certify as follows:

1. The present name of the corporation is:
VA Research and Education Corporation of the Pacific

&

2. The name of the corporation is changed to:
Pacific Health Research and Education Institute

3. The amendment to change the corporation name was adopted on: January 8th 2010
(Month Day Year)

(Check one)

at a meeting of the *members*:

Designation (class) Of membership	Total Number of Memberships (votes) outstanding	Total Number of Votes Entitled to be Cast By each Class	Number of Votes Cast by each class For Amendment	Number of Votes Cast by each class Against Amendment

OR

by written consent of the *members* holding at least eighty per cent of the voting power.

OR

by a sufficient vote of the *Board of Directors* or *incorporators* because member approval was not required.

4. Check one:

The written approval of a specified person or persons named in the articles of incorporation was obtained

The written approval of a specified person or persons is not required.

The undersigned certifies under the penalties of Section 414D-12, Hawaii Revised Statutes, that the undersigned has read the above statements, I/we are authorized to make this change, and that the statements are true and correct.

Signed this 20th day of January, 2010

James E. Hastings, M.D., FACP, Chair

(Type/Print Name & Title)

James E Hastings
(Signature of Officer)

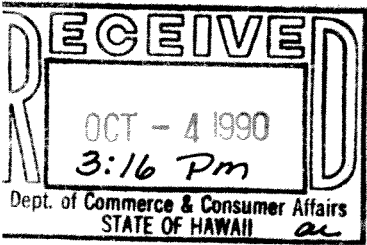
Myra K. Look, Executive Director

(Type/Print Name & Title)

Myra K Look
(Signature of Officer)

SEE INSTRUCTIONS ON REVERSE SIDE. The articles must be signed by at least one officer of the corporation.

01/22/201020007



Domestic Nonprofit

State of Hawaii
Department of Commerce and Consumer Affairs
Business Registration Division
1010 Richards Street

Mailing Address: P.O. Box 40, Honolulu, Hawaii 96810

V# 1 15091503 1061 5/25/90 \$25.00
V# 1 15094601 1061 5/25/90 \$15.25

1510DZ

ARTICLES OF INCORPORATION
(Section 415B-34, Hawaii Revised Statutes)

The undersigned, acting as incorporators of a non-profit corporation authorized under Section 204 of U.S. Public Law 100-322 (May 20, 1988), hereby adopt the following Articles of Incorporation for such corporation, thus:

I

The name of the corporation is VA RESEARCH CORPORATION OF THE PACIFIC.

II

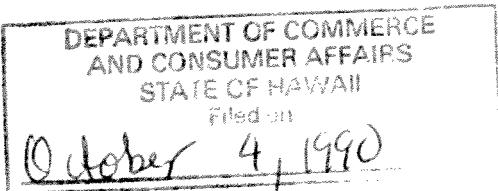
The business address of the corporation is Department of Veterans Affairs Outpatient Clinic, 300 Ala Moana Boulevard, Honolulu, Hawaii 96813.

III

The life of the corporation is perpetual.

IV

The purposes for which the corporation is being organized are as follows: (1) Facilitate approved VA research-related activities in conjunction with the VA Medical Facility in Honolulu, Hawaii; and (2) Support and further educational programs and/or projects related to research.



1

V

The corporation shall be organized in accordance with the non-profit corporations laws of the State of Hawaii, registered in the State of Hawaii, and subject to such non-profit corporation laws of the State, to the full extent consistent with Federal law, so as to be conferred all the powers and exercise all the rights, privileges and benefits emanating from said laws.

VI

The corporation shall obtain tax-exempt status under Section 501(c)(3) of the Internal Revenue Code within three (3) years from the date of its incorporation or be dissolved.

VII

The corporation, in order to preserve its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, must comply with certain regulations of the Internal Revenue Service, notably, the following: (1) regulation prohibiting a non-profit corporation from providing any individual with personal income other than payments for services rendered; (2) regulation prohibiting the transfer of corporate property to private ownership; and (3) regulation providing for the transfer of corporate property only to another entity with a tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

The corporation shall not also engage, to a substantial degree, in lobbying or propaganda, or otherwise attempt to influence legislation. It shall not, likewise, participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

IX

Upon the dissolution of the corporation, after paying or making provision for the payment of all its just debts and obligations, the corporation shall distribute all its remaining assets to the General Post Fund of the VA Medical Facility and/or to such organization or organizations organized and operated exclusively for charitable, educational, or scientific purposes which (also) enjoy tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

X

The incorporators of the corporation are as follows:

<u>Name</u>	<u>Address</u>
Barry G. Raff Director, VA Outpatient Clinic	411 Opihikao Place Honolulu, HI 96825
William J. Vandervort, M.D. Chief of Staff VA Outpatient Clinic	1717 Ala Wai Blvd., #1808 Honolulu, HI 96815
Frederick Lee Hall III District Counsel	1098 Kaluanui Road Honolulu, HI 96825

XI

The initial members of the Board of Directors of the corporation are as follows:

<u>Name</u>	<u>Address</u>
Barry G. Raff Director, VA Outpatient Clinic	411 Opihikao Place Honolulu, HI 96825
William J. Vandervort, M.D. Chief of Staff VA Outpatient Clinic	1717 Ala Wai Blvd., #1808 Honolulu, HI 96815
Claude M. Chemtob, Ph.D. Research & Development Coordinator VA Outpatient Clinic	2003 Kalia Road, #10D Honolulu, HI 96815

XII

The officers of the corporation shall consist of a President, a Vice-President, a Secretary, and a Treasurer. The offices of President and Vice-President will be held by the same individual who will hold the additional title of Executive Director.

President	Claude M. Chemtob, Ph.D. 2003 Kalia Road, #10D Honolulu, HI 96815
Vice-President	Claude M. Chemtob, Ph.D. 2003 Kalia Road, #10D Honolulu, HI 96815
Secretary	Anthony Holzgang, M.D. 5622 Haleola Street Honolulu, HI 96821
Treasurer	Anita Coit 1519 Nuuanu Ave., KT 114 Honolulu, HI 96817

XIII

Individuals who are familiar with issues involving biomedical and scientific research, clinicians who have distinguished themselves in the field of medical research, medical school(s) affiliated with the VA, and entities which are engaged in biomedical/scientific research and related education projects may be admitted as members of the corporation.

WE HEREBY CERTIFY, under the penalties provided by law, that we have read the foregoing statements, and that the same are true and correct.

IN WITNESS WHEREOF, we have hereunto set our hands this 1st day of October, 1990, in Honolulu, Hawaii.



BARRY G. RAFF
Director, VAOPC



WILLIAM J. VANDERVORT, M.D.
Chief of Staff, VAOPC



FREDERICK LEE HALL III
District Counsel

PACIFIC HEALTH RESEARCH AND EDUCATION INSTITUTE

BY-LAWS

ARTICLE I

PLACE OF BUSINESS

Section 1. Principal Place of Business The principal place of business of the Institute shall be at the Department of Veterans Affairs Pacific Islands Health Care System, 459 Patterson Road, Honolulu, Hawaii 96819.

Section 2. Other Places of Business The Institute may also establish other place or places of business as the purposes of the Institute may require, as determined from time to time by the Board of Directors, provided that such other place or places shall be within the State of Hawaii.

ARTICLE II

BOARD OF DIRECTORS

Section 1. General Powers The property and business of the Institute shall be managed under the direction of the Board of Directors of the Institute, who shall exercise all powers permitted under the Hawaii Nonprofit Corporations Act.

The Board of Directors may, from time to time, appoint or employ such persons in such capacities as the Board may consider necessary to assist in the proper conduct of the activities and management of the Institute. The terms and conditions of any such appointment shall be at the discretion of the Board.

Section 2. Number and Term of Office The number of Directors shall be six (6) or such other number as may be designated from time to time by resolution of a majority of the entire Board of Directors. The persons holding the positions of Director of the Department of Veterans Affairs Pacific Islands Health Care System, Chief of Staff of the Department of Veterans Affairs Pacific Islands Health Care system, the Associate Chief of Staff for Education of the Department of Veterans Affairs Pacific Islands Health Care system, and Coordinator for Research of the Department of Veterans Affairs Pacific Islands Health Care System shall be Directors of the Institute (known hereafter as statutory Directors). Each such Director shall serve until he or she resigns or no longer holds the above-described position. The remaining Directors shall be individuals who are not employees of the federal government (known hereafter as non-statutory Directors), and who are familiar with medical/scientific research and/or medical education. These Directors shall serve for a period of three (3) years and terms are renewable.

Section 3. Chairperson of the Board of Directors The members of the Board of Directors shall elect among themselves a Chairperson and a Vice Chairperson, who shall preside over all their meetings. The Chairperson and Vice Chairperson shall serve for a period of three (3) years and terms are renewable.

The Chairperson of the Board of Directors shall, subject to the control of the Board of Directors, supervise and control the affairs of the Institute and the activities of its Officers. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, by the Articles of Incorporation, by these By-Laws, or which may be prescribed from time to time by the Board of Directors. He or she may, in the name of the Institute, join in the execution of all authorized deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Board of Directors, except in cases wherein the signing of execution thereof shall be delegated by the Board of Directors to some other Officer or agent of the Institute.

Section 4. Quorum A majority of the entire membership of the Board of Directors shall constitute a quorum to do business, and the affirmative vote of a majority of those present shall be necessary to bind the Institute, unless otherwise provided by law, or by the Articles of Incorporation, or by these By-Laws.

Section 5. Vacancies Vacancies on the Board of Directors shall exist on the death, resignation or removal of any non-VA statutory Director, and whenever the number of such non-VA statutory Directors is increased by resolution of a majority of the Board of Directors.

Directors may be removed without cause by a majority of the Board of Directors, with the exception of a statutory Director, who may be removed only by the Secretary of Veterans Affairs or his or her designee.

Any non-VA statutory Director may resign effective immediately upon giving written notice to the Board of Directors, unless the notice specifies the effective date of such resignation.

Vacancies in the Board of Directors shall be filled by an action of the majority of the remaining Board of Directors, and the appointee(s) shall serve the unexpired portion of the term of the Director(s) so replaced.

Section 6. Place of Meetings Unless otherwise indicated, all meetings of the Board of Directors, whether regular or special, shall be held at the principal place of business of the Institute. However, the Board may, by resolution, change the place of meeting from time to time, as warranted, in which event, by personal delivery, telephone or other means, at least two (2) days before the scheduled meeting; provided, all its meetings must be held in the State of Hawaii.

Section 7 Regular Meetings Regular meetings of the Board of Directors shall be held quarterly with or without notice to the members of the Board. However, the Board may, by resolution, change the day of any of its regular meetings to any other day, in which case, notice of such change shall be given to all the members, by

personal delivery, telephone or other means, at least two (2) days before the meeting. Attendance of the meeting by a member shall, however, be construed as a waiver of such notice.

Any business may be transacted during any regular meeting of the Board of Directors without the necessity of a fixed agenda.

The minutes in each meeting shall be kept in the Record Book by the Secretary of the Institute, or in his or her absence, by someone designated by the Chairperson of the Board.

Section 8. Special Meetings Special Meetings of the Board of Directors may be called at any time by the Chairperson of the Board or upon the written request of at least four (4) members of the Board. Said request shall be addressed to the Secretary of the Institute and shall state the time, place and subject matter(s) to be taken up in such meeting. Appropriate notice by personal delivery, telephone, or other means shall thereafter be sent to all the members of the Board at least two (2) days before the scheduled meeting. Attendance of the special meeting by a member of the Board shall be construed as a waiver of the requisite notice.

Only such matters as are specified in the notice shall be transacted during the special meeting.

The minutes in each of these meetings shall be kept in the Record Book by the Secretary of the Institute, or in his or her absence, by someone designated by the Chairperson of the Board.

Section 9. Powers of the Board of Directors The Board of Directors of the Institute shall have the following general and specific powers:

General Powers

1. It shall be the policy-making body of the Institute.
2. It shall manage the business, property, and affairs of the Institute to the extent permitted by the non-profit corporation laws of the State of Hawaii.

Specific Powers

1. It shall choose and hire the officers of the Institute and fix their compensation.
2. It shall hire, upon the recommendation of the Executive Director of the Institute, such other employees that it considers necessary to carry out and achieve the purposes of the Institute, and fix their compensation. In this connection, the Board may even hire a VA employee who is qualified to provide needed services for the Institute while said employee is off from his or

her official duties; provided that it is with the prior approval of the Director of the VA medical facility or designee.

3. It shall accept gifts and grants from, and enter into contracts with individuals and public and private entities solely to carry out the purposes of the Institute.
4. It may amend or repeal any provision of these By-Laws by the affirmative votes of the majority of all the members of the Board.
5. It may create, by resolution, committees, specifying the names and responsibilities of, and the number of Directors to compose, each committee to assist the Board in achieving the purposes of the Institute.

Section 10. Compensation of the Board of Directors The members of the Board of Directors shall not receive any stated salary or income for their services to the Institute. They shall, however, be entitled to receive from the Institute, as determined by the Board, by resolution, compensation for reimbursement of the expenses incurred by them in attending any regular or special meeting, even if such meeting is adjourned for lack of quorum.

ARTICLE III

OFFICERS

Section 1. The Institute shall have as its officers, an Executive Director, Secretary and Treasurer, who shall be appointed by the Board of Directors. The Board of Directors retains the right to combine the positions of Secretary and Treasurer; however, neither the Chairperson of the Board of Directors or the Executive Director may serve in said position.

The appointment of the Executive Director must be met with the concurrence of the Director of the VA Medical facility. The Executive Director will be an officer of the Institute but will not be a member of the Board of Directors, who provides oversight and guidance to the Executive Director.

Section 2. Term of Office The term of office of the Executive Director, Secretary, and Treasurer shall be two (2) years unless he or she *resigns or is removed or is otherwise disqualified to serve*. In the event a vacancy shall arise by resignation or removal before the expiration of the term of office, the successor appointed shall serve the unexpired portion of the term. The Executive Director, Secretary, and Treasurer may *also* be reappointed for another term at the discretion of the Board of Directors.

Section 3. Performance Review The Executive Director, Secretary and Treasurer shall be subject to a performance review at the end of said term of office, or at the discretion of the Board of Directors; provided that such review has been

established on agreed and measurable objectives and benchmarks set forth between the Board and individual Officers of the Institute.

Section 4 Vacancies Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any Officer, or the creation of a new Officer position, shall be filled by a majority of the Board of Directors.

Section 5. Executive Director The Executive Director, in addition to duties and responsibilities as laid down by the Board of Directors, shall perform the following:

1. He or she shall be responsible for the day-to day, general operations of the Institute and shall conduct all of the business and affairs of the Institute.
2. He or she shall be an ex-officio member of all the committees that may be created by the Board of Directors.
3. He or she shall attend all meetings of the Board of Directors, except when in executive session, and all committees so created.
4. He or she shall recommend to the Board of Directors the hiring of such employees he or she considers necessary to achieve the purposes of the Institute.
5. He or she shall carry out and implement whatever policies the Board of Directors has adopted to attain the objectives of the Institute.
6. He or she shall implement a method for the receipt and custody of the corporate funds and securities and shall cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the Institute and shall deposit all monies or other valuable effects in the name and to the credit of the Institute in such depositories as may be designated by the Board of Directors.
7. He or she shall disburse the funds of the Institute as may be ordered by the Board of Directors and shall render to the Board of Directors at its regular meetings or when the Board of Directors so requires, an accounting of all of his or her transactions and of the financial condition of the Institute.

Section 6. Secretary The Secretary, in addition to duties and responsibilities as laid down by the Board of Directors, shall perform the following:

1. He, she or a designee shall attend all meetings of the members-at -large and the Board of Directors and maintain records of all

the proceedings of these meetings in the Record Book of the Institute.

Section 7. **Treasurer** The Treasurer, in addition to duties and responsibilities as laid down by the Board of Directors, shall perform the following:

1. He or she shall join in the execution in the name of the Institute, of all authorized deeds, mortgages, bonds, contracts or other instruments requiring a seal, under the seal of the Institute, except in cases in which the signing or execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Institute.
2. He, she or a designee shall have custody of the corporate funds and securities and shall keep accurate accounts of receipts and expenditures in books belonging to the Institute and shall deposit all monies or other valuable effects in the name and to the credit of the Institute in such depositories as may be designated by the Board of Directors.
3. He or she shall disburse funds of the Institute as may be ordered by the Board of Directors and may render to the Board of Directors, at its regular meetings or when the Board of Directors so requires it, an account of all transactions as Treasurer and of the financial condition of the Institute.

Section 8. The Board of Directors may appoint such additional officers as it shall deem necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

ARTICLE IV

FUNDING

Section 1. **Source of Funding of the Institute** Funds for the Institute may come in any of the following forms:

1. Grants, contracts or gifts from for-profit, companies, charitable foundations, the Public Health Service or other federal agencies, professional societies or other non-profit entities, and individuals;
2. Funds received by the VA for the conduct of research and educational activities at the VA medical facility other than funds appropriated to the VA may be transferred to, and administered by, the Institute for that purpose;

3. Funds donated to the General Post Fund specifically to support VA research and education activities may be transferred to the Institute; and,
4. Funds earmarked for a specific research project or educational activity may be transferred to the Institute to support its activities, if the donor consents.

Section 2. No funds of the Institute shall be spent for a research project before it has undergone a formal review by the Research and Development Committee of the VA Medical facility.

Section 3. No funds of the Institute shall be spent for an education or training activity without the prior approval of the Education Committee, which shall review and approve said education or training activity in accordance with procedures prescribed for education by the Under Secretary of Health.

Section 4. Institute funds may be used for travel, including attendance at educational conferences and seminars but such travel must be limited to a purpose related to VA research and educational activities. All travel by VA employees paid by the Institute must be approved pursuant to the appropriate Federal Travel Regulations and policies of the Veterans Health Administration.

Section 5. Since the purpose of the Institute is to facilitate research and education, it shall not receive or administer funds that will not be used for VA-related research and educational activities.

ARTICLE V

EXECUTION OF INSTRUMENTS AND BANK ACCOUNTS

Section 1. Execution of Instruments The Board of Directors delegates to the Executive Director the authority to enter into contracts or execute and deliver instruments in the name of and on behalf of the Institute.

Section 2. Bank Accounts Agents of the Institute, as designated by the Board of Directors, shall have the authority to deposit any funds of the Institute in banks or trust companies designated by the Board of Directors. Agents authorized by the Board of Directors may withdraw any or all of the funds of the Institute so deposited in any bank or trust company, upon checks, drafts or other instruments or orders for the payment of money, drawn against the account or in the name or behalf of the Institute, and made or signed by such agents. Each bank or trust company with which funds of the Institute are so deposited is authorized to accept, honor, cash and pay all checks, drafts or other instruments or orders for the payment of money, when drawn, made or signed by agents so designated by the Board of Directors until written notice of the revocation of the authority of such Officers or agents by the Board of Directors shall have been received by such bank or trust company. There shall from time to time be certified to the banks or trust companies in which funds of the Institute are deposited the

signatures of the agents of the Institute so authorized to draw against the same. In the event the Board of Directors shall fail to designate the persons by whom checks, drafts and other instruments or orders for the payment of money shall be signed, as hereinabove provided in this Section, all of such checks, drafts and other instruments or orders for the payment of money shall be signed by the Chairperson of the Board of Directors or the Executive Director.

ARTICLE VI

ACCOUNTABILITY AND OVERSIGHT

Section 1. The programs and operations of the Institute shall be considered to be programs and operations of the VA with respect to which the VA Inspector General has responsibilities under the Inspector General Act of 1978.

Section 2. The Institute shall be considered a Federal agency for purposes of Title 31, United States Code, Section 716, relating to availability of information and inspection of records by the Comptroller General.

Section 3. The Institute shall submit to the Secretary of the Department of Veterans Affairs a report detailing its operations, activities and accomplishments during that year. It shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the Institute during that year to be included in its annual report.

Section 4. Each member of the Board of Directors of the Institute, each employee of the Institute, and each VA employee involved in the functions of the Institute shall be subject to Federal laws and regulations applicable to Federal employees on conflicts of interest in the performance of official functions. Thus, each board member and each employee shall submit annually to the Secretary of the Institute, a signed statement certifying awareness of, and compliance with, these laws and regulations.

ARTICLE VII

INDEMNIFICATION AND INSURANCE

Section 1. To the full extent permitted by law, the Institute shall have the power to indemnify its agents, including its Directors, officers, and employees, and any other person who was or is a party or is threatened to be made a party to any proceeding, except as provided in Hawaii Nonprofit Corporations Act section 414D-160(d), by reason of the fact that such person is or was an agent of the Institute, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner reasonably believed to be in the best interests of the Institute and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful.

Section 2. Upon written request to the Board of Directors by any person seeking indemnification under Section 414D-165 of the Hawaii Nonprofit Corporations Act, the Board shall promptly determine in accordance with Section 414D-160 whether the applicable standard of conduct has been met. The determination shall be made by the Board of Directors by majority vote of a quorum consisting of directors who are not at the time parties to the proceeding, or shall be made by majority vote of a committee duly designated by the Board of Directors (in which designation Directors who are parties may participate) consisting solely of two or more directors not at the time parties to the proceeding if a quorum cannot be obtained.

Section 3. To the full extent permitted by law and except as is otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under these By-laws in defending any proceeding covered by these By-laws shall be advanced by the Institute prior to the final disposition of the proceeding upon receipt by the Institute of a written affirmation by or on behalf of such person that the advance will be repaid unless such person is indemnified by the Institute.

Section 4. To the full extent permitted by law, the Institute shall have the power to purchase and maintain sufficient insurance on behalf of any person who is or was a board director, officer, employee or agent of the Institute against any liability asserted against or incurred by him or her in such capacity or arising out of his or her status as such, whether or not the Institute would have the power to indemnify him or her against such liability under provisions of this article.

Section 5. The Institute's secondary liability based on the acts of its research personnel in the course and scope of their federal employment arising out of injuries to research subjects involving grants administered by the Institute is governed by the Federal Tort Claims Act.

ARTICLE VIII

AMENDMENT

Section 1. Any officer or Director of the Board may propose amendments to the By-Laws of the Institute by submitting such proposal to the Secretary.

Section 2. Any proposal to amend any provision of the By-Laws shall be adopted by a majority of votes of all the members of the Board of Directors; provided, however, that such amendment shall not take effect until approved by the Director of the VA medical facility.

ARTICLE IX

DISSOLUTION

Upon the dissolution of the Institute, after paying or making provisions for the payment of all its just debts and obligations, the Institute shall distribute all its remaining

assets to the General Post Fund of the VA Medical facility to be used to research and/or educational purposes and/or to such organization(s) organized and operated exclusively for charitable, educational, or scientific purposes which (also) enjoy tax exempt status under Section 501 (c) (3) of the Internal Revenue Code.

NPC Authorizing Statute – Changes Made by Title VIII of S. 1963 Accepted

TITLE 38 – SUBCHAPTER IV - RESEARCH AND EDUCATION CORPORATIONS

- **§7361. Authority to establish; status**
- **§7362. Purpose of corporations**
- **§7363. Board of directors; executive director**
- **§7364. General powers**
- **§7365. Coverage of employees under certain Federal tort claims laws**
- **§7366. Accountability and oversight**

§7361. Authority to establish; status

(a) The Secretary may authorize the establishment at any Department medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research and education at the medical center. Such a corporation may be established to facilitate either research or education or both research and education.

(b)(1) Subject to paragraph (2), a corporation established under this subchapter may facilitate the conduct of research, education, or both at more than one Department medical center. Such a corporation shall be known as a ‘multi-medical center research corporation.’

(2) The board of directors of a multi-medical center research corporation under this subsection shall include the official at each Department medical center concerned who is, or who carries out the responsibilities of, the medical center director of such center as specified in section 7363(a)(1)(A)(i) of this title.

(3) In facilitating the conduct of research, education or both at more than one Department medical center under this subchapter, a multi-medical center research corporation may administer receipts and expenditures relating to such research, education, or both as applicable, performed at the Department medical centers concerned.

(c) Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable Department medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State. In the case of any multi-medical center research corporation that facilitates the conduct of research, education, or both at Department medical centers located in different States, the corporation shall be established in accordance with the nonprofit corporation laws of the State in which one of such Department medical centers is located.

(d)(1) Except as otherwise provided in this subchapter or under regulations prescribed by the Secretary, any corporation established under this subchapter, and its officers, directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives that apply generally to private nonprofit corporations.

(2) A corporation under this subchapter is not-

(A) owned or controlled by the United States; or

(B) an agency or instrumentality of the United States.

(e) If by the end of the four-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Secretary shall dissolve the corporation.

(f) A corporation established under this subchapter may act as a multi-medical center research corporation under this subchapter in accordance with subsection (b) if –

- (1) The board of directors of the corporation approves a resolution permitting facilitation by the corporation of the conduct of research, education, or both at the other Department medical center or medical centers concerned; and
- (2) The Secretary approves the resolution of the corporation under paragraph (1).

§7362. Purpose of corporations

(a) A corporation established under this subchapter shall be established to provide a flexible funding mechanism for the conduct of approved research and education at one or more Department medical centers and to facilitate functions related to the conduct of research as described in section 7303(a) of this title and education and training as described in sections 7302, 7471, 8154, and 1701(6)(B) of this title in conjunction with the applicable Department medical center or centers.

(b) For purposes of this section, the term “education” includes education and training and means the following:

(1) In the case of employees of the Veterans Health Administration, such term means work-related instruction or other learning experiences to--

(A) improve performance of current duties;

(B) assist employees in maintaining or gaining specialized proficiencies; and

(C) expand understanding of advances and changes in patient care, technology, and health care administration.

(2) In the case of veterans under the care of the Veterans Health Administration, such term means instruction or other learning experiences related to improving and maintaining the health of veterans and includes education and training for patients and families and guardians of patients.

§7363. Board of directors; executive director

(a) The Secretary shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include--

(1) with respect to the Department medical center--

(A)(i) the director (or directors of each medical center, in the case of a multi-medical center research corporation);

(ii) the chief of staff; and

(iii) as appropriate for the activities of such corporation, the associate chief of staff for research and the associate chief of staff for education; or

(B) In the case of a Department medical center at which one or more of the positions referred to in subparagraph (A) do not exist, the official or officials who are responsible for carrying out the responsibilities of such position or positions at the Department medical center; and

(2) subject to subsection (c), not less than two members who are not officers or employees of the Federal Government and who have backgrounds, or business, legal, financial, medical or scientific expertise of benefit to the operations of the corporation.

(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with concurrence of the Under Secretary for Health of the Department. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

(c) An individual appointed under subsection (a)(2) to the board of directors of a corporation established under this subchapter may not be affiliated with or employed by any entity that is a source of funding for research or education by the Department unless that source of funding is a

governmental entity or an entity the income of which is exempt from taxation under the Internal Revenue Code of 1986.

§7364. General powers

(a)(1) A corporation established under this subchapter may, solely to carry out the purposes of this subchapter-

(A) accept, administer, retain, and spend funds derived from gifts, contributions, grants fees, reimbursements, and bequests from individuals and public and private entities;

(B) enter into contracts and agreements with individuals and public and private entities;

(C) subject to paragraph (2), set fees for education and training facilitated under section 7362 of this title, and receive, retain, administer, spend funds in furtherance of such education and training;

(D) reimburse amounts to the applicable Department appropriation for the Office of General Counsel for any expenses of that Office in providing legal services attributable to research and education agreements under this subchapter; and

(E) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

(2) Fees charged under paragraph (1)(C) for education and training described in that paragraph to individuals who are officers or employees of the Department may not be paid for by any funds appropriated to the Department.

(3) Amounts reimbursed to the Office of General Counsel under paragraph (1)(D) shall be available for use by the Office of General Counsel only for staff and training and related travel for the provision of legal services described in that paragraph and shall remain available without fiscal year limitation.

(b)(1) Except as provided in paragraph (2), any funds received by the Secretary for the conduct of research or education at a department medical center or centers, other than funds appropriated to the Department, may be transferred to and administered by the corporation established under this subchapter for such purposes.

(2) A Department medical center may reimburse the corporation for all or a portion of the pay, benefits, or both of an employee of the corporation who is assigned to the Department medical center if such assignment is carried out pursuant to subchapter IV of chapter 33 of title 5.

(3) A Department medical center may retain and use funds provided to it by a corporation established under this subchapter. Such funds shall be credited to the applicable appropriation account of the Department and shall be available, without fiscal year limitation, for the purposes of that account.

(c) Except for reasonable and usual preliminary costs for project planning before its approval, a corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Under Secretary for Health for research carried out with Department funds. Such procedures shall include a scientific review process.

(d) Except for reasonable and usual preliminary costs for activity planning before its approval, a corporation established under this subchapter may not spend funds for an education activity unless the activity is approved in accordance with procedures prescribed by the Under Secretary for Health.

(e) The Under Secretary for Health may prescribe policies and procedures to guide the spending of funds by corporations under this subchapter that are consistent with the purpose of such corporations as flexible funding mechanisms and with Federal and State laws and regulations, and executive orders, circulars, and directives that apply generally to the receipt and

expenditure of funds by nonprofit organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

§7365. Coverage of employees under certain Federal tort claims laws

(a) An employee of a corporation established under this subchapter who is described by subsection (b) shall be considered an employee of the Government, or a medical care employee of the Veterans Health Administration, for purposes of the following provisions of law:

- (1) Section 1346(b) of title 28.
- (2) Chapter 171 of title 28.
- (3) Section 7316 of this title.

(b) An employee described in this subsection is an employee who--

- (1) has an appointment with the Department, whether with or without compensation;
- (2) is directly or indirectly involved or engaged in research or education and training that is approved in accordance with procedures established by the Under Secretary for Health for research or education and training; and
- (3) performs such duties under the supervision of Department personnel.

§7366. Accountability and oversight

(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Secretary.

(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Department with respect to which the Inspector General of the Department has responsibilities under such Act.

(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

(b) (1) Each such corporation shall submit to the Secretary each year a report providing a detailed statement of the operations, activities, and accomplishments of the corporation during that year.

(2)(A) A corporation with revenues in excess of \$500,000 for any year shall obtain an audit of the corporation for that year.

(B) A corporation with annual revenues between \$100,000 and \$500,000 shall obtain an independent audit of the corporation at least once every three years.

(C) Any audit under this paragraph shall be performed by an independent auditor.

(3) The corporation shall include in each report to the Secretary under paragraph (1) the following:

(A) the most recent audit of the corporation under paragraph (2).

(B) The most recent Internal Revenue Service Form 990 "Return of Organization Exempt from Income Tax" or equivalent and the applicable schedules under such form.

(c) Each director, officer and employee of a corporation established under this subchapter shall be subject to a conflict of interest policy adopted by that corporation.

(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the corporations established under this subchapter. The report shall set forth the following information:

(1) The location of each corporation.

(2) The amount received by each corporation during the previous year, including-

(A) the total amount received;

- (B)** the amount received from governmental entities for research and the amount received from governmental entities for education;
 - (C)** the amount received from all other sources for research and the amount received from all other sources for education; and
 - (D)** if the amount received from a source referred to in subparagraph (C) exceeded \$25,000, information that identifies the source.
- (3)** The amount expended by each corporation during the year including-
- (A)** the amount expended for salary for research staff, the amount expended for salary for education staff, and the amount expended for salary for support staff;
 - (B)** the amount expended for direct support of research and the amount expended for direct support of education; and
 - (C)** if the amount expended with respect to any payee exceeded \$50,000, information that identifies the payee.
- (4)** The amount expended by each corporation during the year for travel conducted in conjunction with research and the amount expended for travel in conjunction with education.

**DEPARTMENT OF VETERANS AFFAIRS NONPROFIT RESEARCH AND
EDUCATION CORPORATIONS AUTHORIZED BY
TITLE 38 UNITED STATES CODE (U.S.C.) SECTIONS 7361 THROUGH 7366**

- 1. REASON FOR ISSUE.** This Veterans Health Administration (VHA) Handbook provides procedures and instructions governing Nonprofit Research and Education Corporations (NPC) created pursuant to title 38 §§ 7361 through 7366, United States Code (U.S.C.).
- 2. SUMMARY OF MAJOR CHANGES.** This VHA Handbook constitutes a complete revision of existing procedures and instructions applicable to nonprofit research and education corporations established at VA medical centers and managed in accordance with §§ 7361 through 7366 of title 38, U.S.C. The Handbook also includes revisions based on Public Law 111-163 §§ 802-806.
- 3. RELATED ISSUES.** VHA Directive 1200 and VHA Handbook 1058.03.
- 4. RESPONSIBLE OFFICE.** The Office of Research and Development (ORD) (12) is responsible for the contents of this VHA Handbook. Questions may be addresses to 816-922-2042.
- 5. RESCISSION.** VHA Handbook 1200.17 dated December 17, 2001, VHA Handbook 1400.2 dated December 5, 2000, VHA Directive 2008-038, and VHA Directive 2009-061 are rescinded.
- 6. RECERTIFICATION.** This document is scheduled for recertification on or before the last working day of December 2015.

Robert A. Petzel, M.D.
Under Secretary for Health

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**DEPARTMENT OF VETERANS AFFAIRS NONPROFIT RESEARCH AND
EDUCATION CORPORATIONS AUTHORIZED BY
TITLE 38 UNITED STATES CODE (U.S.C.) SECTIONS 7361 THROUGH 7366**

1. PURPOSE

This Veterans Health Administration (VHA) Handbook provides Department of Veterans Affairs (VA) procedures and instructions applicable to Nonprofit Research and Education Corporations (NPC) established at VA medical centers and managed in accordance with sections 7361 through 7366 of title 38, United States Code (U.S.C.).

2. BACKGROUND

a. **Flexible Funding Mechanisms.** NPCs exist to provide VA medical centers with flexible funding mechanisms for the conduct of, and to facilitate functions related to the conduct of, approved research and education at one or more VA medical centers. NPCs are not owned or controlled by the Federal government, nor are they an agency or instrumentality of the Federal government.

b. **Facilitating Conduct of VA Research or Education and Training.** NPCs may facilitate the conduct of VA-approved research as described in sections 7303(a) and education and training as described in section 7303, 7471, 8154, and 1701(6)(B) of title 38, U.S.C. Each research project approved by a facility Research and Development (R&D) Committee and each education activity approved by the facility Education Committee is considered to be a VA research project or a VA education activity respectively, regardless of the source of funding, the entity administering the funds, or the research or education site.

c. **Funds Management.** The facilitation of research or education and training referred to in the preceding paragraph includes managing funds for VA-approved research projects and education activities as well as more generally supporting facility research and education programs in conjunction with the applicable medical center.

d. **Expenditure of Funds.** NPCs may expend funds on the following VA activities:

(1) **Research Projects.** Research projects that have been approved in accordance with the procedures established by the Under Secretary for Health for VA research and reasonable and usual preliminary costs for project planning prior to approval.

(2) **Educational Activities.** Educational activities that have been approved by the VA medical center Education Committee in accordance with criteria established in 38 U.S.C. 7362 (b), and reasonable and usual preliminary costs for activity planning prior to approval. Types of education and training activities that may be approved are patient-related activities and employee-related activities, including activities for employees of VHA taking part in residency and other training programs designed to prepare an individual for an occupation or profession in health care. NPCs may collaborate with VA's Employee Education System (EES) to support approved education and training activities for the VA medical center(s) or other educational activities permitted by Federal law.

(a) Patient-related Activities. Patient-related activities include education activities for Veterans, their families and guardians that provide instruction or other learning experiences related to improving or maintaining the health of veterans.

(b) Employee-related Activities. Employee-related activities include:

1. Work-related experiences for employees designed to:

a. Improve performance of current duties;

b. Assist employees in maintaining or gaining specialized competencies and proficiencies;

or

c. Expand understanding of advances or changes in patient care, technology, or health care administration.

2. Training-related activities that support accredited and non-accredited training programs designed to prepare an individual for an occupation or profession in health care such as activities that:

a. Improve educational environment, infrastructure and resources for trainees; or

b. Facilitate trainee integration into facility care processes and workforce.

3. SCOPE

This Handbook pertains to VA-affiliated NPCs established under §§ 7361 through 7366 of title 38, U.S.C. These corporations include those established to facilitate the conduct of research, or education, or both research and education at one or more VA medical centers. The term “VA medical center” includes VA health care systems.

4. VA OVERSIGHT

a. VA Responsibility. VA is responsible for ongoing oversight of NPCs.

b. Oversight Mechanism. NPC oversight is performed by:

(1) **Nonprofit Program Oversight Board (NPOB).** The NPOB is VA’s senior management oversight body, as outlined in the NPOB charter, for NPCs. The NPOB is responsible for reviewing NPC activities for consistency with VA policy and interests, and for making recommendations through the Under Secretary for Health to the Secretary of Veterans Affairs regarding VA policy pertaining to NPCs.

(2) **Nonprofit Program Office (NPPO).** The NPPO, which is located in VHA is the liaison between VHA and NPCs. The NPPO is responsible for coordinating policy regarding NPCs and provides oversight, guidance and education to ensure compliance with applicable regulations and VA policies affecting the operation and financial management of NPCs. This includes

responsibility for performing on- and off-site reviews, substantive reviews of annual reports submitted by each NPC, and for compiling such annual report data for VA's required annual report to Congress. Additionally, the NPPO institutes measures to ensure that any deficiencies in the operation and management of an NPC are corrected in an appropriate and timely manner.

(3) **Chief Financial Officer (CFO).** The VHA CFO exercises financial oversight of NPCs by review of NPPO activities and review of any audit of an NPC by independent auditors, as necessary. Results of such CFO reviews must be made available to the NPPO and NPOB through the Chief Research and Development Officer.

5. ESTABLISHMENT OF VA RESEARCH AND EDUCATION CORPORATIONS

a. **Establishment of NPC.** The Secretary of Veterans Affairs has delegated to the Under Secretary for Health the authority to approve the establishment of a new NPC. A new NPC may be established to facilitate research and education at either one VA medical center (Single NPC) or at more than one VA medical center (Multi-NPC). Establishment of a Single NPC requires compliance with subparagraphs 5a(1) and (2), including all subparagraphs. Establishment of a Multi-NPC requires compliance with subparagraphs 5(1) and (2), including all subparagraphs, and paragraph 6.

(1) **Request to Under Secretary for Health.** The medical center Director of a facility interested in establishing a new NPC must contact the NPPO before beginning the process of incorporation and must submit a request to the Under Secretary for Health through the NPPO that includes a:

(a) **Business Plan.** The medical center Director must submit to the NPPO a business plan that demonstrates how the NPC will be assured of generating a revenue stream sufficient to cover its administrative expenses. The business plan must address:

1. Whether the facility has an established:
 - a. Research and/or education program;
 - b. Research & Development Committee and/or Education Committee;
 - c. Federalwide Assurance (FWA);
 - d. Institutional Review Board (IRB) of record registered with Office of Human Research Program and listed on the VA medical center's FWA;
 - e. Public Health Service Assurance (PHS assurance or Animal Welfare Assurance) issued by the Office of Laboratory Animal Welfare, Health and Human Services;
 - f. Affiliation with a university;
2. The viability of the NPC as evidenced by:
 - a. The potential number of research projects or educational activities the NPC is likely to

administer;

- b. The number of potential principal investigators (PIs); and
- c. Other factors the facility deems relevant.

(b) Certification of Responsibilities. The medical center Director must provide a statement signed by the prospective statutory VA Directors certifying their understanding of the responsibilities they will assume as members of the NPC Board of Directors upon incorporation (a sample of the certification is found at App. A).

(2) **Approval.** ORD, the Office of Academic Affiliations (OAA), (if NPC supports education activities), and the Office of the Deputy Under Secretary for Health for Operations and Management (10N) must evaluate the business plan and certification of responsibilities, and must make a recommendation to the Under Secretary for Health whether to approve establishment of the new NPC. The Under Secretary for Health may seek input from the NPOB before reaching a decision. After approval by the Under Secretary for Health, the medical center Director may initiate incorporation of the NPC.

b. **State Law.** To the extent not inconsistent with Federal law, each NPC must conform to the applicable nonprofit corporation law(s) of the state in which it is incorporated.

c. **Official Resources.** Reasonable and necessary VA resources, including start-up funds and VA employee time, may be used to establish an NPC until it is incorporated.

d. **Permanent Authority to Establish Corporations.** VA has permanent authority to establish new NPCs at VA medical centers.

6. MULTI MEDICAL CENTER RESEARCH CORPORATION (MULTI-NPC)

a. **Approval of a Conversion of an Established NPC to a Multi-NPC.** The authority to approve the conversion of an established NPC to a Multi-NPC that will facilitate VA research and education at more than one VA medical center rests with the Secretary of Veterans Affairs who may delegate this authority. The Board of an NPC that converts to a Multi-NPC must agree to facilitate research and education at more than its own medical center and will add each other affected medical center Director to the Multi-NPC Board. If a Single NPC exists at a VA medical center when a Multi-NPC resolves to facilitate VA research and education at that VA medical center, the Single NPC may consolidate with the Multi-NPC through dissolution, merger or acquisition.

(1) **Request to Secretary, or Delegee.** The medical center Director of the VA medical center where the Multi-NPC will be established must submit a request to the Secretary of Veterans Affairs, or delegee, through the NPPO that includes a:

(a) **Business Plan.** This plan must demonstrate how the Multi-NPC will facilitate research at any other medical centers identified in the proposal and must address the viability of the Multi-NPC as affected by the proposed additional responsibilities as evidenced by:

1. The potential number of total research projects or educational activities the Multi-NPC is likely to administer;

2. The number of total potential principal investigators (PIs); and

3. Proposed amended Articles of Incorporation and By-Laws; and

4. Other factors the medical center Director deems relevant.

(b) **Resolution.** The Board of the Single NPC desiring become a Multi-NPC must pass a written resolution permitting facilitation by the corporation of the conduct of research, education, or both at the other Department medical center or medical centers concerned.

(c) **Certification by Statutory VA Directors.** The medical center Director, where the Multi-NPC is to be established, must provide a statement signed by the prospective Multi-NPC Statutory VA Directors, including the other medical center Directors of all the VA medical centers to be served by the Multi-NPC, certifying their:

1. Agreement to serve on the Board of the Multi-NPC;

2. Understanding of the responsibilities they will assume as members of the Multi-NPC Board; and

3. Affirmation that they have read and approved the business plan. *NOTE: A sample of the certification is found at Appendix B.*

(d) **Additional Certifications by Each Affected Medical Center Director.** Each affected Medical Center Director (other than the medical center Director at the VA medical center establishing the Multi-NPC) must submit a statement agreeing that the Multi-NPC may facilitate research and/or education at the Director's medical center.

(2) **Approval.** ORD, the Office of Academic Affiliations (OAA) (if NPC supports educational activities), and the Office of the Deputy Under Secretary for Health for Operations and Management (10N) must evaluate the business plan and certifications, and make a recommendation to the Secretary of Veterans Affairs, or delegee, whether to approve the conversion to a Multi-NPC. The Secretary of Veterans Affairs, or delegee, may seek input from the NPOB before reaching a decision.

b. **State Law.** To the extent not inconsistent with Federal law, each NPC must conform to the applicable nonprofit corporation law(s) of the state in which it is incorporated.

7. DISASSOCIATION BY VA

a. **Secretary Determination.** Upon determination by the Secretary of Veterans Affairs that an NPC is not acting in the best interests of VA, the Secretary may authorize the Under Secretary for Health to require remedial measures up to and including VA's disassociation from the NPC.

b. **Tax-Exempt Status.** If an NPC has not been recognized as a tax-exempt organization under § 501(c)(3) of title 26 U.S.C. by the end of the 4-year period beginning on the date of incorporation of the NPC, the Secretary of Veterans Affairs must order its dissolution.

8. NPC DIRECTORS, OFFICERS AND EMPLOYEES

a. **Board of Directors.** An NPC's board members (Directors), known collectively as the Board of Directors (Board), are responsible for governance of the NPC in accordance with applicable Federal and state laws and regulations, and VA policies.

(1) **Board Composition for a Single NPC.** The Board of an NPC facilitating the conduct of VA research and education at a single VA medical center needs to include the following:

(a) **Statutory VA Directors.** Statutory VA Directors serve on an NPC Board in their official VA capacities and need to ensure that the NPC furthers the best interests of VA. Statutory VA Directors must be those VA employees at the medical center who hold the following positions, either by title or by exercise of equivalent responsibilities:

1. Medical Center Director;

2. Chief of Staff (COS);

3. Associate Chief of Staff for Research and Development, if the NPC is a flexible funding mechanism for research activities, and

4. Associate Chief of Staff for Education, if the NPC is a flexible funding mechanism for education activities.

(b) **Statutory Non-Federal Directors.** There must be no less than two Directors who are not officers or employees of the Federal Government and who have backgrounds or business, legal, financial, medical, or scientific expertise of benefit to NPC operations.

1. NPC employees and persons with Federal appointments (with or without compensation) are not eligible to hold these statutory non-Federal positions.

2. Statutory Non-Federal Directors may not be affiliated with, or employed by, any entity that is a source of funding for VA research or education, unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under the Internal Revenue Code (IRC) of 1986 as amended.

(2) **Board Composition of Multi-NPC.** The Board of a Multi-NPC that will facilitate the conduct of VA research and education at more than one VA medical center must include the following:

(a) All of the Directors described in preceding subparagraph 8a(1) for a Single NPC. In the case of a start-up Multi-NPC not involving an established Single NPC, the Board must include all of the Statutory VA Directors of the VA medical center that establishes the Multi-NPC.

(b) At a minimum, the medical center Director, (by title or by exercise of equivalent responsibilities) of each additional VA medical center where the Multi-NPC will facilitate research and education activities.

(3) **Authority to Act.** The Board of each NPC has authority to govern the NPC as provided in its articles of incorporation and bylaws.

(4) **Compensation.** Statutory VA Directors may not receive compensation for their services as Directors of the NPC because their service as Directors is part of their official VA duties and responsibilities. The NPC may compensate other Directors who do not serve on the Board as part of any government employment. Such compensation must be consistent with applicable state and Federal laws, and the NPC's bylaws or policies.

(5) **Expense Reimbursement.** NPCs may reimburse Directors for out-of-pocket expenses associated with their service on the Board in accordance with the NPC's reimbursement policies. Statutory VA Directors may accept reimbursement only in accordance with Federal statutes, regulations and VA policy regarding acceptance of non-Federal travel support under section 1353 of title 31, U.S.C. or § 4111 of title 5, U.S.C.

b. **Officers of the NPC.** NPC officers are appointed by the Board in accordance with state law and the NPC's bylaws. Statutory VA Directors may serve as officers of the NPC, but may not be compensated for such services because they serve as part of their official VA duties. The NPC may compensate other Directors who serve as officers. Such compensation must be consistent with applicable state and Federal laws, and the NPC's bylaws or policies.

c. **Employees.** An NPC may employ individuals to carry out its purposes and may determine their compensation. NPC employees who are given a VA Without Compensation (WOC) appointment in accordance with subparagraph (2)(a) to provide research or education services for VA must be supervised by VA employees while providing such services to VA.

(1) **Executive Director**

(a) **Appointment.** The Board must appoint an Executive Director of the NPC. Pursuant to section 7363 of title 38 of the U.S.C., the Under Secretary for Health must concur with the appointment of the Executive Director. This responsibility has been delegated to the Director of medical center where the Single or Multi-NPC is established.

(b) Compensation. The Executive Director may receive salary from the NPC for services provided to the NPC.

(c) VA Employee as an Executive Director. If the Executive Director is also a VA employee, the Executive Director may be compensated by the NPC only for services to the NPC that are outside the scope of the Executive Director's VA duties and that are performed outside VA-duty hours. *NOTE: Criminal ethics laws raise conflicts of interest and representational issues. Executive Directors who are also VA employees should seek advice from a VA Government ethics official (Regional Counsel or Office of General Counsel, Professional Staff Group III) to ensure they do not violate conflict of interest laws and regulations.*

(2) VA WOC Appointments for NPC Employees

(a) WOC Appointments. NPC employees who are directly or indirectly involved or engaged in approved VA research or education and training activities, and who perform such duties under the supervision of VA personnel, must have a VA WOC appointment. If performing such duties, the NPC employee must sign a VA Intellectual Property Agreement prior to performing such work.

(b) VA Employees. VA employees who work for the NPC during their non-VA duty hours, and who are assigned to VA to work on research projects or education and training activities during those NPC hours, must have a WOC appointment. Such work must be different from the VA employee's official VA duties.

9. CONFLICTS OF INTEREST

a. General. NPC Directors, officers and employees are subject to the conflict of interest policy adopted by that NPC. VA employees serving as NPC Directors as part of official VA duty are also subject to the Federal conflict of interest laws and regulations that control if in conflict with NPC policy. Other than Statutory VA Directors, VA employees serving as NPC Directors, officers or employees do so in their personal capacities and are prohibited by Federal conflict of interest laws from participating personally and substantially as part of their official VA duties, in any matter that will have a direct and predictable effect on their own financial interests or the financial interest of the NPC.

b. Conflict of Interest Policy. Each NPC must establish a written policy on conflicts of interest applicable to NPC Directors, officers, and employees. The NPC Board retains responsibility for oversight of the conflict of interest policies at the NPC. At a minimum, such policy must:

(1) Describe when a conflict of interest may exist;

(2) Require training for Directors, officers, and employees about the policy upon hire or affiliation and annually thereafter for Directors, officers and employees with decision-making authority (key employees);

(3) Require disclosure of potential conflicts of interest by NPC Directors, officers and key employees;

(4) Require a statement of acknowledgment of understanding and agreement to comply with the policy by each Director, officer and employee (see App. C); and

(5) Include a process for identifying and managing conflicts of interest.

c. **Training Requirements.** The NPC conflict of interest policy must include training requirements and a mechanism for tracking fulfillment of training requirements. All Directors, officers (including the Executive Director), and employees of the NPC must receive training in the NPC conflict of interest policy within 90 days of employment or affiliation with the NPC. Additionally, all Directors, officers (including the Executive Director) and other key employees who file an annual disclosure form with the NPC must receive training in the NPC's conflict of interest policy annually thereafter. *NOTE: The NPC conflict of interest training does not fulfill the requirement for all new VA employees to take Government ethics training, nor does VA Government ethics training fulfill the NPC conflict of interest training requirement.*

d. **Disclosure Form.** NPC Directors, officers and key employees have a fiduciary responsibility to the NPC that includes making decisions that affect the interests of the NPC in a manner that is free from conflict of interest. In order to ensure that potential conflicts of interest can be identified and managed, these individuals must file disclosure forms, approved by the NPC board, with the NPC annually. The NPC conflict of interest policy will set forth the process for filing, reviewing, and tracking disclosure forms. *NOTE: NPCs are strongly encouraged to reference applicable Internal Revenue Service (IRS) instructions to protect their exemption under section 501 (c)(3) of the Internal Revenue Code. The NPC conflict of interest disclosure form does not fulfill the VA financial disclosure requirement for VA employees. However, the NPC may choose to accept a copy of the Public Financial Disclosure report (SF-278) or Confidential Financial Disclosure report (OGE 450) in lieu of the NPC-approved disclosure form.*

e. **Policy Statement.** Every NPC Director, officer, and employee must, upon hire or affiliation, sign a statement acknowledging their understanding of the NPC conflict of interest policy and their agreement to comply with the policy. Such statement must be maintained by the NPC (see App. C for a sample statement).

f. **Certification.** Annually, the Executive Director must include in the report to the Secretary of Veterans Affairs certification that each NPC Director, officer and employee has:

- (1) Been trained about the conflict of interest policy;
- (2) Acknowledged understanding of and agrees to comply with the policy; and
- (3) Submitted a conflict of interest disclosure form.

10. LIABILITY AND INSURANCE

a. **Liability Protections.** An employee of an NPC who has a VA appointment, either with or without compensation, and is directly or indirectly involved or engaged in approved research or education, and performs such duties under the supervision of VA personnel is considered an employee of the Federal Government in cases where the United States is a defendant (section 1346(b) of title 28, U.S.C.) or for tort claims procedures under the Federal Tort Claims Act (FTCA) (28 U.S.C. §§ 2671-2680), or if appropriate, must be considered a medical care employee of VA for purposes of malpractice or negligence claims defended by the United States (section 7316 of title 38, U.S.C.).

b. **Insurance.** Because Federal coverage, FTCA or other, may apply only to NPC activities and personnel directly or indirectly related to approved VA research or education, NPCs are advised to purchase insurance to protect Directors, officers and employees against liability for actions of the Board and for employment practices, as well as coverage for NPC property and other activities.

c. **Worker's Compensation.** NPCs with employees must comply with state laws requiring purchase of worker's compensation insurance for work-related injuries.

11. PROVIDING AND FUNDING ADMINISTRATIVE AND RESEARCH SERVICES

a. **Use of VA Resources or Time to Support Management or Other Operations of an NPC**

(1) **VA Resources.** As provided in subparagraph 5c, VA resources may be used to establish a new NPC until such NPC is incorporated.

(2) **Official VA Time.** Except for statutory VA Directors carrying out NPC Director responsibilities and VA employees working to establish a new NPC, VA employees may not use official VA time to carry out NPC administrative functions.

(3) **Statutory VA Directors.** Statutory VA Directors may use VA-time and other VA resources as necessary to fulfill their responsibilities as Directors.

(4) **VA Resources That Incidentally Further NPC Purposes.** The NPC may receive any incidental benefits that result from VA employees using VA resources to carry out their official duties to promote VA research and education missions. The medical center also may provide the NPC with space for its activities and with services, such as maintenance, repair, and utilities, without reimbursement.

b. **Reimbursement and Compensation Related to Approved Research Projects or Education Activities**

(1) **VA Employees.** VA employees may be assigned as part of their VA duties to work on

VA-approved research projects or education activities for which an NPC is the flexible funding mechanism.

(2) **Reimbursement.** NPCs may reimburse VA for salaries and other costs incurred by VA in the conduct of VA-approved research projects or education activities. A VA medical center may retain and use funds provided to it by a NPC. Such funds must be credited to the applicable VA appropriation account and available for account purposes without fiscal year limitations as provided for in § 7364(b)(3) of title 38, U.S.C.

(3) **NPC Hiring VA Employees.** NPCs may hire and directly pay VA employees to perform work that is different from their official VA duties and performed outside their VA duty hours. Note: Federal law prohibits illegal supplementation of Federal salaries. NPC payment to VA employees for work that is the same as their official VA duties, even if the work is performed outside VA duty hours, may violate criminal statutes. Therefore, NPCs are encouraged to reimburse VA for such work rather than pay VA employees directly.

c. **Federalwide Assurance (FWA).** NPCs facilitating human subject research must comply with Department of Health and Human Services and VA policy with regard to obtaining and maintaining FWA.

12. AUTHORITIES AND LIMITATIONS AFFECTING RESEARCH AND EDUCATION NPCS

a. **Revenue.** NPCs may, solely for the purpose of facilitating functions related to the conduct of approved VA research and education activities:

(1) Accept, administer, retain and spend funds derived from gifts, contributions, grants fees, reimbursements, and bequests from individuals and public and private entities.

(2) Set fees for education and training facilitated by the NPC and receive, retain, administer, and spend funds in furtherance of such education and training. Such fees charged for individuals who are VA employees may not be paid for by funds appropriated to VA.

(3) Reimburse applicable VA appropriation accounts for expenses of the Office of General Counsel in providing legal services attributable to research and education agreements administered by that NPC. Such reimbursed amounts may be used by the Office of General Counsel only for staff and training and related travel for the provision of such legal services and must remain available without fiscal year limitations.

(4) In accordance with its own governing documents (IRS application for exemption from federal taxation, articles of incorporation and bylaws), NPC Directors, officers and employees may engage in fundraising activities under the following conditions:

(a) Statutory VA Directors may engage in fundraising in their official VA capacities as board members. Other VA employees may participate in NPC fundraising activities in their personal capacities to the extent permitted by applicable Federal and state law, regulations and VA policy. All are encouraged to seek advice from a VA Government ethics official before

engaging in such activities.

(b) No solicitation of VA employees is permitted outside of approved Combined Federal Campaign activities.

(c) An NPC may hire a professional fundraiser to assist with fundraising activities.

b. **VA Reimbursement to NPC.** A VA medical center may reimburse an NPC, and the NPC may accept such reimbursement, for all or a portion of the pay, benefits or both, of an NPC employee who is assigned to such medical center under an Intergovernmental Personnel Act (IPA) Agreement.

c. **Assurances.** NPCs must not give assurances or other commitments concerning VA decision-making, including assurances that VA will fulfill any particular purpose for which a donor intends a gift to be used.

d. **NPC Contracts and Agreements.** NPCs may enter into contracts and other forms of agreements with individuals and public and private entities for research and education purposes as well as for their own operational purposes. NPCs are encouraged to consult with VA Regional Counsel on agreements pertaining to research projects and education activities.

(1) **State and Federal Law.** NPCs may not enter into agreements that purport to supersede, or are contrary to, state or Federal law.

(2) **Agreements.** NPCs may not enter into agreements on behalf of VA or that purport to bind VA.

(3) **Contracts.** VA and NPCs may not enter into contracts with each other. This prohibition also applies to sharing agreements under § 8153 of title 38 U.S.C.

(4) **Cooperative Research and Development Agreements (CRADAs).** NPCs may be parties to CRADAs even when VA is also a party. However, each CRADA must contain a statement that the NPC and VA are independent from one another and that the CRADA does not establish a contract between VA and the NPC.

(5) **Documentation.** Business transactions between VA and an NPC must be supported by documentation. Such documentation may include a bill for collection, an Intergovernmental Personnel Act (IPA) mobility assignment, or a Memorandum of Understanding (MOU), as well as other records.

e. **Federal Law.** If state law conflicts with Federal law governing the NPCs, Federal law preempts the conflicting state law.

f. **Interpretation of Law.** Only VA General Counsel speaks authoritatively on the numerous Federal laws governing the VA mission. General Counsel interpretation of such laws is controlling within VA and the NPCs.

g. **Legal Counsel.** Either VA legal counsel or private legal counsel paid by the NPC may be used in the operation of the NPC. ***NOTE: If an NPC obtains written private legal advice that is contrary to VA policy, the NPC must provide a copy to the appropriate VA Regional Counsel.***

h. **Training.** NPCs must ensure that Directors, officers, and employees receive all applicable training as required by this handbook.

i. **NPC Reportable Events.** NPCs need to report the following to the NPPO:

- (1) Change of physical address, e-mail address, and phone numbers.
- (2) New Executive Director, name and contact information.
- (3) New Board President, name and contact information.
- (4) New Principal Accountant, i.e., new CFO, Controller, or Bookkeeper, name and contact information.
- (5) Disputes with independent auditors other than over fees.
- (6) All findings by any other governmental auditors.
- (7) Significant adverse events, such as:
 - (a) Major loss of property from fire or storm.
 - (b) All thefts and embezzlements, regardless of amount.
 - (c) All threatened or actual litigation against the NPC.
 - (d) Board votes for dissolution, merger or significant transfer of assets.
 - (e) Current or projected inability to meet financial obligations.

13. NPC FINANCIAL MANAGEMENT

a. **Donation Documentation.** NPCs must document acceptance of donations not otherwise documented in a grant, contract or other agreement. The NPC must send an acknowledgement letter to the donor (per IRS requirements) for donations, if \$250 or more. The acknowledgement must contain a statement setting out the nature and conditions of the donation, if any (see App. D for a sample donation acknowledgement letter).

b. **Investment Practices.** Guaranteeing the safety of NPC assets is a primary goal in management of NPC funds. An NPC may deposit funds in interest bearing Federally-insured accounts at either a bank or through a brokerage firm providing Federal Deposit Insurance Corporation (FDIC) (or equivalent credit union) coverage of deposits. NPCs may use idle funds to purchase instruments backed by the full faith and credit of the United States Government such

as Treasury bills, notes, and bank certificates of deposit. Investment in stocks, mutual funds, certain Federal agency financial instruments not backed by the full faith and credit of the United States Government, or similar investment vehicles is not allowed.

c. **Internal Controls**

(1) **Policies.** Each NPC must have a written policy and procedures detailing its internal controls. Such internal controls must provide for sufficient procedures and mechanisms to protect its assets and to meet the requirements of the applicable external audit. The internal controls policies need to include the training requirements set forth in subparagraph 13c(4) Internal Controls Training.

(2) **Oversight.** The NPPO must evaluate the effectiveness of internal control policies through review of the IRS Form 990, external audits, and annual NPC reports to the Secretary of Veterans Affairs submitted through the ORD. The NPPO also will conduct other reviews as necessary. The NPPO must track the results of such reviews, and any NPCs found to have deficiencies or material weaknesses will be required to submit to the NPPO a plan for corrective action. The NPPO needs to continue tracking such deficiencies until corrections are fully implemented.

(3) **Official Approval.** An appropriate official of the NPC must approve all expenditures. That official may be the Executive Director or another person designated by the Executive Director or the NPC Board.

(4) **Internal Controls Training.** All new NPC Board members, including Statutory VA Directors, and all new Executive Directors, officers, and key employees must take internal controls training within 90 days of assuming the role. Approved training is available on the VA EES web site or via an Internal Controls Training DVD available through the NPPO. Proof of completion of training must be provided by individuals to the NPC. The NPC is responsible for retaining training certification as long as the individual holds the position. The NPC ED must certify compliance in the annual report to the Secretary of Veterans Affairs.

d. **Limitations on Expenditures**

(1) **Publications.** NPC funds may be used to pay for publications and scientific journals that facilitate VA's research and education missions.

(2) **Professional Memberships.** NPC funds may be used to pay for corporate memberships in professional organizations that facilitate VA's research and education missions.

(3) **Travel Expenditures.** NPC funds may be used for travel that facilitates VA research, education or NPC operations. VA employees are responsible for following Federal laws, regulations, and VA policies regarding acceptance of non-Federal travel support paid by or administered through an NPC. Each NPC must have a travel policy that provides reimbursement under an IRS accountable plan.

(4) **Licensure.** The NPC may not pay for required professional licenses for VA employees.

The NPC may pay for licensure for qualified individuals who work exclusively for the NPC if such payment can be related to support of the VA research or education mission.

e. **Funds Administration**

(1) **Multi-Center Activities.** An NPC may administer funds for multi-site research projects or education activities, provided that, in doing so, the NPC is serving the research and/or education missions at least at one of the medical center or centers it serves. Such efforts may be done without the need for a Single NPC to become a Multi-NPC.

(2) **Transfer of Funds from VA.** VA may not transfer funds appropriated to VA to an NPC except those funds reimbursed to an NPC under an IPA agreement (see subpar. 12b). VA may transfer to an NPC any other funds received by VA for the conduct of research or education.

(3) **Transfer of Funds from NPCs**

(a) **Funds and Equipment Associated with Active Research Projects or Education Activities.** An NPC may transfer to another NPC or to a VA entity funds and equipment associated with an active research project or education activity subject to the applicable agreement and approval of the Board, the funder and the recipient institution.

(b) **Residual Funds**

1. Any funds and/or equipment remaining after completion of a research project or education activity that the sponsor does not require to be returned (residual funds) must be used for the general support of VA research or education consistent with the requirements of this Handbook.

2. Upon departure of an investigator from a VA medical center, residual funds and equipment associated with that investigator may be retained by the NPC in accordance with Board policy. Alternatively, such funds and equipment may be transferred, but only to another NPC or to a VA medical center, subject to approval by the Board and the recipient NPC or VA entity.

f. **Records and Record Retention**

(1) **Records.** The NPC must make and preserve records of the organization, including its functions, policies, decisions, procedures, and transactions, in accordance with commonly accepted nonprofit practices and commonly accepted accounting practices.

(a) These records, maintained for the benefit of the NPC, need to be designed to protect the legal and financial rights of the NPC, VA, and persons directly affected by the NPC's activities.

(b) An NPC must maintain timekeeping, payroll, and other records of compensation paid. In the case of dual VA or NPC employees, where compensation is paid to the employee by the NPC, such documentation must clearly demonstrate that compensation is paid only for work that differs from the employee's official VA duties and is conducted outside the VA tour of duty.

(2) **Fiduciary Obligations.** The NPC's officers and Directors must fulfill their fiduciary obligations to the NPC by providing documentation that will:

- (a) Demonstrate approval by the NPC Board of Directors of major business decisions, and
- (b) Provide information necessary to respond to an IRS inquiry or audit.

(3) **Tax and Non-Tax Records.** NPC tax and non-tax records must be retained by the NPC in accordance with applicable Federal and state statutes and regulations and funding source requirements.

(4) **Consistent with Accounting Procedures.** Financial records must be created and maintained by the NPC in accordance with accounting procedures established by the NPC and applicable Federal and state statutes and regulations and funding source requirements.

14. ACCOUNTABILITY

a. Record Availability

(1) **Secretary of Veterans Affairs.** The records of an NPC must be available to the Secretary of Veterans Affairs.

(2) **Audits and Investigations.** In connection with any audit, inquiry, investigation, or review of NPC activities, the NPC must cooperate with and make its records available to the VA Inspector General, the Comptroller General, the IRS, the Secretary of Veterans Affairs, and the state(s) where the NPC is doing business.

(3) **Records Disclosure.** NPC business records are not subject to disclosure under the Freedom of Information Act (FOIA).

b. **Annual Report to the Secretary.** By June 1 of each year, each NPC must submit an annual report to the NPPO, ORD, VA Central Office detailing NPC revenues and expenditures. The annual report is required even if the NPC did not accept or expend funds during the previous year. ORD is responsible for submitting the annual report of education-only NPCs to OAA. The information contained in each NPC report is used to prepare VA's annual report to Congress regarding the NPCs, as well as for VA's oversight purposes. The NPC's annual report to the Secretary of Veterans Affairs must include at a minimum:

(1) **Audit Report.** An independent auditor's report for the NPC's last completed fiscal year. Each NPC with revenues in excess of \$500,000 for any year must obtain an independent audit of the financial statements of the NPC for that year. A NPC with annual revenues between \$100,000 and \$500,000 must obtain an audit of the NPC at least every 3 years.

(2) **IRS Form 990 or 990 EZ.** IRS Form 990 or 990 EZ with schedules, Return of Organization Exempt from Income Tax, for the NPC's last completed fiscal year even if revenues fall below the IRS's mandatory Form 990 filing threshold of \$1 million.

(3) **Certification.** An annual statement signed by the NPC's Executive Director verifying that each Director, officer, and employee has certified awareness of, and compliance with the NPC conflict of interest policy in accordance with subparagraph 9b(3) and that Directors, officers, and key employees have fulfilled the Internal Controls Training requirement (see subpar. 13c(4)).

(4) **Location.** The physical address of the NPC along with the identity of the VA medical center(s) served by the NPC.

(5) **Revenue.** The amount of revenue received by the NPC during the previous year, including:

(a) The total amount received;

(b) The amount received from governmental entities for research and the amount received from governmental entities for education;

(c) The amount received from all other sources for research and the amount received from all other sources for education; and

(d) The amount received from any source that exceeds \$25,000, as well as information that identifies the source.

(6) **Expenditures.** The amount expended by each NPC during the year including:

(a) The amount expended for salary for research staff, the amount expended for salary for education staff, and the amount expended for salary for administrative staff;

(b) The amount expended for direct support of research and the amount expended for direct support of education; and

(c) The amount and identification of the payee if the amount expended with respect to the payee exceeded \$50,000.

(7) **Travel Expenditures.** The amount expended by the NPC during the year for travel conducted in conjunction with research and the amount expended for travel in conjunction with education.

15. REFERENCES

a. Title 38 U.S.C. Sections 7361 through 7366.

b. Title 38 U.S.C. 7368, Repealed by Public Law 110-387, Section 806.

c. Title 18 U.S.C Sections 202-209.

d. Title 38 U.S.C. Section 512.

- e. Title 26 U.S.C. Section 501(c) (3).
- f. Title 31 U.S.C. Section 1301.
- g. Title 28 U.S.C. Sections 1346(b), and 2671-2680.
- h. Title 28 U.S.C. Chapter 171.
- i. Title 38 U.S.C. Section. 7316.
- j. Title 38 U.S.C. Section 311.
- k. Title 38 U.S.C. Section 7303(a).
- l. Title 38 U.S.C. Section 7302.
- m. Title 38 U.S.C. Section 7471.
- n. Title 38 U.S.C. Section 8154.
- o. Title 38 U.S.C. Section 1701(6)(B).
- p. Title 5 CFR Sections 2640.201-202.
- q. Internal Revenue Code of 1986, as amended.
- r. Title 31 U.S.C. Section1353.
- s. Title 31 U.S.C. Section 4111.
- t. Executive Branch Personnel Public Financial Disclosure Report (SF 278).
- u. Executive Branch Confidential Financial Disclosure Report (OGE Form 450).
- v. Title 38 Code of Federal Regulations 1.218 (a) (8).

**PROSPECTIVE NONPROFIT RESEARCH AND EDUCATION
CORPORATIONS (NPC)
STATUTORY VA DIRECTORS'
CERTIFICATION OF RESPONSIBILITIES
Single NPC**

Each of the undersigned, as a prospective statutory Department of Veterans Affairs (VA) Director of a VA-affiliated nonprofit research and education corporation (NPC), certifies the undersigned's understanding of undersigned's statutory responsibilities to the NPC. Each understands that the undersigned will serve as a member of the Board in the undersigned's official VA capacity. Each commits to allocating sufficient time and resources to establish the NPC as well as to fulfilling the undersigned's own responsibilities as a Board member.

Signature, Insert Name, Medical Center Director

Date

Signature, Insert Name, Chief of Staff

Date

Signature, Insert Name, Associate Chief of Staff for Research
if applicable

Date

Signature, Insert Name, Associate Chief of Staff for Education
if applicable

Date

**PROSPECTIVE MULTI-MEDICAL CENTER RESEARCH CORPORATION
STATUTORY VA DIRECTORS'
CERTIFICATION OF RESPONSIBILITIES**

As prospective Statutory Department of veterans Affairs (VA) Directors of a multi-medical center research corporation (Multi-NPC), the undersigned certify understanding of the undersigned's responsibilities to the Nonprofit Research and Education Corporations (NPC). Each understands that the undersigned will serve as a member of the Multi-NPC Board in the undersigned's official VA capacity. Each commits to allocating sufficient time and resources toward fulfilling the undersigned's responsibilities as a board member. Each has read and approved the business plan for the prospective Multi-NPC.

Signature, Insert Name, Lead Facility Medical Center Director Date

Signature, Insert Name, Lead Facility Chief of Staff
of the Lead Facility Date

Signature, Insert Name, Lead Facility Associate Chief
of Staff for Research, if applicable Date

Signature, Insert Name, Lead Facility Associate Chief
of Staff for Education, if applicable Date

Signature, Insert Name, Other Facility Medical Center Director Date

If needed, insert additional "other facility" Statutory VA Directors

SAMPLE

**AFFIRMATION OF UNDERSTANDING OF AND COMPLIANCE WITH THE NPC
CONFLICT OF INTEREST POLICY**

Instructions: Each Nonprofit Research and Education Corporations (NPC) Director, Officer, or Employee must sign this statement after having read the NPC Conflict of Interest Policy upon hire or affiliation with the NPC.

I hereby certify that I am aware of and am in compliance with the ___(NPC Name)___ conflict of interest policy with respect to conflicts of interest related to the performance of my official functions at the ___(research or education NPC)___.

(Signature)
(Typed or Printed Name)

Date _____

**SAMPLE ACKNOWLEDGEMENT OF DONATION LETTER
FOR GIFTS VALUED AT \$250 OR MORE**

Nonprofit Research and Education Corporations (NPC) Letterhead

Date

*Addressee
Address*

Dear *(insert name)*,

Thank you for your generous donation of ___*(insert exact amount of a cash contribution or identify the in-kind gift)*___ in support of Department of Veterans Affairs (VA) research and/or education. *Add more details as needed including the purpose of the gift, restrictions, terms or conditions if any.*

If goods or services were exchanged for the donation: The estimated monetary value of the services (or goods such as a meal at a fundraising event) provided in exchange for your donation was ___*\$(insert amount)*___. Only the portion of your contribution that exceeds the value of the services (or goods) you received may be tax deductible.

If no goods or services were provided, state: No services or goods were provided in exchange for or in connection with this donation.

If an in-kind gift was provided: Thank you for your in-kind gift of ___*(describe in detail)*___.

If donor advised (that is, donor will be allowed to influence use of the donation): Please be aware that your donation has been characterized as “donor advised” and may not be tax deductible. In accordance with IRS rules, this letter constitutes notification that such funds are the property of ___*(insert NPC name)*___ subject to the exclusive control of ___*(insert NPC name)*___ and may be used only for charitable purposes. They may not be used for the benefit of you, your family members or your advisors, or for any other impermissible private benefit.

Please retain this letter as a written proof of your donation for your tax records. ___*(Name of NPC)*___ is an exempt from Federal taxation under section 501(c)(3) if the Internal Revenue Service code. Our Federal ID number is ___*(XX-XXXXX)*___.

Thank you again for your generous gift.

Sincerely,
Insert your signature
Insert your typed name
Insert your title

PACIFIC HEALTH RESEARCH AND EDUCATION INSTITUTE

CONFLICT OF INTEREST POLICY

This policy is intended to supplement, but not replace, federal and state laws governing conflicts of interest applicable to nonprofit corporations. It applies to board members and staff with significant decision-making authority. Persons covered under this policy, as well as their relatives and associates, are referred to as “interested parties.”

Conflict of Interest A conflict of interest may exist when the interests of concerns of an interested party may be seen as competing with the interests or concerns of the PHREI. There are a variety of situations that raise conflict of interest concerns including, but not limited to, the following:

1. Financial Interests: A conflict may exist where an interested party directly or indirectly benefits or profits as a result of a decision, policy or transaction made by the PHREI. Examples includes situations where:
 - The PHREI contracts to purchase or lease goods, services or properties from an interested party;
 - The PHREI offers employment to an interested party, other than a person who is already employed by the Institute;
 - An interested party is provided with a gift, gratuity, or favor of a substantial nature from a person or entity that does business or seeks to do business with the Institute;
 - An interested party is gratuitously provided use of the facilities, properties, or services of the Institute;
 - The PHREI adopts a policy that financially benefits an interested party.

A financial interest is not necessarily a conflict of interest. A financial conflict of interest exists only when the Board decides a person with a financial interest has a conflict of interest.

2. Other Interests: A conflict may exist where an interested party obtains a non-financial benefit of advantage that he/she would not have obtained absent his/her relationship with the Institute. Examples include where:
 - An interested party seeks to obtain preferential treatment by the Institute or recognition for himself/herself or another interested party. An interested party seeks to make use of confidential information obtained from the Institute for his/her own benefit (not necessarily financial) or for the benefit of another interested party;
 - An interested party seeks to take advantage of an opportunity or enables another interested person or other organization to take advantage of an opportunity that he/she has reason to believe would be of interest to the Institute;

- The PHREI adopts a policy that provides a significant non-financial benefit to an interested party.

A conflict of interest exists only when the Board of Directors decides there is a conflict.

Disclosure of Potential Conflicts of Interest An interested party is under a continuing obligation to disclose any potential conflict of interest as soon as it is known or reasonably should be known.

An interested party shall complete the questionnaire attached as Attachment 1 to full and completely disclose the material facts about any potential conflicts of interest. The disclosure statement and Affirmation of Compliance (Attachment 2) shall be submitted upon his/her association with the Institute, and shall be reviewed annually thereafter. An additional disclosure statement shall be filed whenever a potential conflict arises.

Disclosure statements will be submitted as follows:

For board members, the disclosure statements shall be provided to the Chairman of the Board. The Chairman's disclosure statement shall be provided to the Secretary of the Board or its equivalent. Copies also shall be provided to the Executive Director of the Institute who will maintain the statements in the Institute's files.

In the case of staff, the recipient is the designated reviewing official responsible for bringing potential conflicts to the attention of the appropriate authorities. The Secretary of the Board of Directors shall file copies of all disclosure statements with the official corporate records of the PHREI.

Procedures for Review of Potential Conflicts Whenever there is reason to believe that a potential conflict of interest exists between the Institute and a Board member or the Executive Director, the Board of Directors shall determine the appropriate response. This shall include, but not necessarily be limited to, invoking the procedures described below with respect to a specific proposed action, policy or transaction. The designated reviewing official has a responsibility to bring a potential conflict of interest to the attention to the Board promptly for action at the next regular meeting of the Board or during a special meeting called specifically to review the potential conflict of interest.

Where the potential conflict involves an employee of the Institute other than the Executive Director, the Executive Director shall be responsible for reviewing the matter and may take appropriate action as necessary to protect the interests of the Institute. The Executive Director shall report to the Chairman the results of any review and the action taken. The Chairman shall determine whether any further Board review or action is required.

Procedures for Addressing Conflicts of Interest Where a potential conflict exists between the interests of the Institute and an interested party with respect to a specific proposed action, policy or transaction, the Board of Directors shall consider the

matter during a meeting of the Board. The Institute shall refrain from acting until such time as the proposed action, policy or transaction has been approved by the disinterested members of the Board of Directors of the Institute. The following procedures shall apply:

- An interested party who has a potential conflict of interest with respect to a proposed action, policy or transaction of the Institute shall not participate in any way in, or be present during, the deliberations and decision-making vote of the Institute with respect to such action, policy or transaction. However, the interested party shall have an opportunity to provide factual information about the proposed conflict and/or action, policy or transaction. Also, the Board may request that the interested party be available to answer questions.
- The disinterested members of the Board of Directors may approve the proposed action, policy, or transaction upon finding that it is in the best interests of the Institute. The Board shall consider whether the terms of the proposed action, transaction or policy are fair and reasonable to the Institute and whether it would be possible, with reasonable effort, to find a more advantageous arrangement with a party or entity that is not an interested party.
- Approval by the disinterested members of the Board of Directors shall be by a vote of a majority of directors in attendance at a meeting at which a quorum is present. An interested party shall not be counted for purposes of determining whether a quorum is present, or for purposes of determining what constitutes a majority vote of directors in attendance.
- The minutes of the meeting shall reflect that the conflict disclosure was made to the Board, the vote taken and, where applicable, the abstention from voting and participation by the interested party. Whenever possible, the minutes should frame the decision of the Board in such a way that it provides guidance for consideration of future conflict of interest situations.

Violations of Conflict of Interest Policy If the Board of Directors has reason to believe that an interested party has failed to disclose a potential conflict of interest, it shall inform the person of the basis for such belief and allow the person an opportunity to explain the alleged failure to disclose. If the Board decides that the interested party has in fact failed to disclose a possible conflict of interest, the Board shall take such disciplinary and corrective action as the Board shall determine.

Please complete the questionnaire below, indicating any potential conflicts of interest. If you answer "yes" to any of the questions, please describe the details of the specific action, policy, or transaction in the space allowed. Attach additional sheets as needed.

Financial Interests – A conflict may exist where an interested party directly or indirectly benefits or profits as a result of a decision, policy, or transaction made by the *Pacific Health Research and Education Institute* (PHREI).

At any time during the past 12 months:
[For each "yes" response, please describe on a separate page.]

1. Has PHREI proposed to contract or contracted to purchase or lease goods, services, or property from you, or from any of your relatives or associates?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Has PHREI offered employment to you or to any of your relatives or associates? [Not applicable to existing staff]	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Have you, or any of your relatives or associates, been provided with a gift, gratuity, or favor of a substantial nature from a person or entity that does business or seeks to do business with PHREI?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Have you, or any of your relatives or associates, been gratuitously provided use of facilities, property, or services of PHREI?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Have you, or any of your relatives or associates, been in a position to benefit financially from an action, policy, or transaction made by PHREI?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Other Interests – A conflict may also exist where an interested party obtains a non-financial benefit or advantage that he/she would not have obtained absent his/her relationship with PHREI, or where his/her duty or responsibility owed to PHREI conflicts with a duty or responsibility owed to some other organization.

At any time during the past 12 months:
[For each "yes" response, please describe on a separate page.]

1. Did you obtain preferential treatment, promotion, recognition, or a non-salaried appointment as a consequence of your association with PHREI for yourself, or for any of your relatives or associates?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Did you make use of confidential information obtained from PHREI for your own benefit or for the benefit of any of your relatives or associates?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Did you take advantage of an opportunity, or enable any of your relatives or associates to take advantage of an opportunity, that you had reason to believe would be of interest to PHREI?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Have you, or any of your relatives or associates, been in a position to benefit in a nonfinancial way from an action, policy, or transaction made by PHREI?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Name: _____ (print)	Signature: _____	Date: _____
------------------------	------------------	-------------

I have received and carefully read the Conflict of Interest Policy for board members and staff with significant decision-making authority of the *Pacific Health Research and Education Institute* (PHREI) and have considered not only the literal expression of the policy, but also its intent. By signing this affirmation of compliance, I hereby affirm that I understand and agree to comply with the Conflict of Interest Policy. I further understand that PHREI is a nonprofit organization and that, in order to maintain its federal tax exemption, it must engage primarily in activities that accomplish one or more of its tax-exempt purposes without personal inurement (other than by salary) by board members or staff.

Except as otherwise indicated in the Disclosure Questionnaire and any attachments therein, I hereby state that I do not have any conflict of interest, financial or otherwise, that may be seen as competing with the interests of PHREI, nor does any relative or associate have such a potential conflict of interest. Nor shall I, any relative, or associate, benefit from any action, policy, or transaction made by PHREI in a manner that has not been previously disclosed.

If any situation should arise in the future that I think may involve me in a conflict of interest, I will promptly and fully disclose in writing the circumstances to the Chair of the Board of Directors of PHREI or to the Executive Director, as applicable.

I further certify that the information set forth in the Disclosure Statement and attachments, if any, is true and correct to the best of my knowledge, information, and belief.

Name: _____ <small>(print)</small>	Signature: _____	Date: _____
---------------------------------------	------------------	-------------

Annual Review and Affirmation

Signature: _____	Date: _____
Signature: _____	Date: _____
Signature: _____	Date: _____

**VA RESEARCH & EDUCATION CORPORATION
OF THE PACIFIC**

**STATEMENT OF CASH RECEIPTS
AND DISBURSEMENTS AND
ADDITIONAL INFORMATION**

**YEAR ENDED DECEMBER 31, 2009
(With Independent Auditors' Reports
Required by OMB Circular A-133)**

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CHOO, OSADA & LEE, CPAs, INC.
CERTIFIED PUBLIC ACCOUNTANTS

1136 12TH AVENUE
SUITE 240
HONOLULU, HAWAII 96816

TELEPHONE (808) 734-1921

**INDEPENDENT AUDITORS' COMBINED REPORT ON THE STATEMENT OF CASH
RECEIPTS AND DISBURSEMENTS AND ADDITIONAL INFORMATION**

To the Board of Directors
VA Research & Education Corporation of the Pacific
Honolulu, Hawaii

We have audited the accompanying statement of cash receipts and disbursements of the VA Research & Education Corporation of the Pacific (a nonprofit organization) for the year ended December 31, 2009. This financial statement is the responsibility of the management of the VA Research & Education Corporation of the Pacific. Our responsibility is to express an opinion on this financial statement based on our audit. The prior year summarized comparative information has been derived from the Organization's 2008 statement of cash receipts and disbursements and, in our report dated May 29, 2009, we expressed an unqualified opinion on that financial statement.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement of cash receipts and disbursements is free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Organization's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the statement of cash receipts and disbursements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the statement of cash receipts and disbursements. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, this financial statement has been prepared on the cash receipts and disbursements basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the statement of cash receipts and disbursements referred to in the first paragraph presents fairly, in all material respects, the cash receipts and disbursements of the VA Research & Education Corporation of the Pacific for the year ended December 31, 2009, on the basis of accounting described in Note 1.

In accordance with *Government Auditing Standards*, we have also issued our report dated April 20, 2010, on our consideration of VA Research & Education Corporation of the Pacific's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Our audit was conducted for the purpose of forming an opinion on the statement of cash receipts and disbursements of VA Research & Education Corporation of the Pacific taken as a whole. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and is not a required part of the statement of cash receipts and disbursements. Such information has been subjected to the auditing procedures applied in the audit of the statement of cash receipts and disbursements and, in our opinion, is fairly stated, in all material respects, in relation to the statement of cash receipts and disbursements taken as a whole.

Chow, Orsada + Lee, CPAs, L.P.C.

Honolulu, Hawaii
April 20, 2010

VA RESEARCH & EDUCATION CORPORATION OF THE PACIFIC
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
YEAR ENDED DECEMBER 31, 2009
(With Comparative Totals for 2008)

	2009			2008
	Unrestricted	Temporarily Restricted	Total	Total
Cash receipts				
Contributions and grants	\$ 6,526	1,382,729	1,389,255	738,079
Interest	84	4,049	4,133	21,966
	<u>6,610</u>	<u>1,386,778</u>	<u>1,393,388</u>	<u>760,045</u>
Net cash released from restrictions	<u>865,310</u>	<u>(865,310)</u>	<u>-</u>	<u>-</u>
	<u>871,920</u>	<u>521,468</u>	<u>1,393,388</u>	<u>760,045</u>
Cash disbursements				
Program activities				
Research	668,917	-	668,917	275,702
Management and general	201,783	-	201,783	117,005
	<u>870,700</u>	<u>-</u>	<u>870,700</u>	<u>392,707</u>
Increase in cash	1,220	521,468	522,688	367,338
Cash				
At beginning of year	<u>16,101</u>	<u>912,357</u>	<u>928,458</u>	<u>561,120</u>
At end of year	<u>\$ 17,321</u>	<u>1,433,825</u>	<u>1,451,146</u>	<u>928,458</u>

See accompanying notes to statement of cash receipts and disbursements.

**VA RESEARCH & EDUCATION CORPORATION OF THE PACIFIC
NOTES TO STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
YEAR ENDED DECEMBER 31, 2009**

NOTE 1 – NATURE OF ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Nature of organization

The VA Research & Education Corporation of the Pacific (Corporation) is organized as a nonprofit corporation under the laws of the State of Hawaii. It facilitates research and professional education related activities approved by the U.S. Department of Veterans Affairs medical facility in Honolulu, Hawaii.

Basis of accounting

The accompanying financial statement has been prepared on the cash receipts and disbursements basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. Under that basis, the only asset recognized is cash, and no liabilities are recognized. All transactions are recognized as either cash receipts or disbursements, and noncash transactions are not recognized. The cash receipts and disbursements basis differs from generally accepted accounting principles primarily because the effects of grants receivable and obligations for expenses unpaid at the date of the financial statement are not included in the financial statement. The cash basis also differs from generally accepted accounting principles because property and equipment is not capitalized and depreciated, and the fair value of donated materials and facilities is not recorded.

Summarized information for prior year

The accompanying statement of cash receipts and disbursements includes prior year summarized comparative information in total but not by net asset class. Such information does not include sufficient detail to constitute a presentation in conformity with the cash receipts and disbursements basis of accounting. Accordingly, such information should be read in conjunction with the Corporation's financial statement for the year ended December 31, 2008, from which the summarized information was derived.

Contributions and grants

Contributions and grants are recorded as unrestricted, temporarily restricted, or permanently restricted, depending on the existence and/or nature of any donor restrictions. When a restriction expires, temporarily restricted cash is reclassified to unrestricted cash.

NOTE 2 – CASH

Cash consists primarily of deposits with Hawaii banks and money market funds. At December 31, 2009, cash deposits in excess of federally insured limits amounted to approximately \$770,000.

NOTE 3 – TEMPORARILY RESTRICTED CASH

At December 31, 2009, the balance of temporarily restricted cash was available to pay for research related activities of the U.S. Department of Veterans Affairs medical facility in Honolulu, Hawaii.

VA RESEARCH & EDUCATION CORPORATION OF THE PACIFIC
NOTES TO STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS - continued
YEAR ENDED DECEMBER 31, 2009

NOTE 4 – INCOME TAXES

The Corporation is exempt from federal income taxes under Section 501(C)(3) of the Internal Revenue Code and is classified as an organization that is not a private foundation as defined in Section 509(a) of the Internal Revenue Code. The Corporation is also exempt from income taxes under Section 235 of the Hawaii Revised Statutes.

NOTE 5 – CONTRIBUTIONS AND GRANTS

For the year ended December 31, 2009, grant receipts from a U.S. government agency amounted to approximately \$1,355,000.

NOTE 6 – EMPLOYEE BENEFIT PLAN

The Corporation has a defined contribution employee benefit plan under Section 401(k) of the Internal Revenue Code covering all employees who meet the age requirement specified in the plan. An employee who is a member of the plan may elect to contribute a portion of his wages to the plan. For the year ended December 31, 2009, the Corporation made matching contributions of up to 5% of a plan member's wages based on the plan member's contributions; payments for such contributions amounted to approximately \$3,300.

NOTE 7 – TRANSACTIONS WITH AFFILIATES

The U.S. Department of Veterans Affairs medical facility in Honolulu, Hawaii provides office space to the Corporation without charge. It also provided the services of an executive director without charge.

For the year ended December 31, 2009, payments to the medical facility for research-related expenses amounted to approximately \$55,000.

NOTE 8 – SUBSEQUENT EVENTS

Subsequent events have been evaluated through April 20, 2010, the date the financial statements were available to be issued.

Effective January 21, 2010, the Corporation has changed its business name to Pacific Health Research and Education Institute (PHREI).

VA RESEARCH & EDUCATION CORPORATION OF THE PACIFIC
SCHEDULE 1 - SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
YEAR ENDED DECEMBER 31, 2009

<u>Federal Grantor/Pass-through Grantor/Program Title</u>	<u>Federal CFDA Number</u>	<u>Grant Number</u>	<u>Federal Expenditures</u>
Office of Naval Research The Efficacy of Virtual Reality in Treating Post-Traumatic Stress Disorder in U.S. Soldiers Returning from Iraq and Afghanistan Combat Theaters	12.300	N00014-05-1-0214	<u>\$ 252,425</u>
U.S. Army Medical Research Acquisition Activity Telemental Health and Cognitive Processing Therapy Rural Combat Veterans with PTSD	12.420	W81XWH-08-2-0063	<u>416,492</u>
			<u>\$ 668,917</u>

See accompanying note to Schedule of Expenditures of Federal Awards.

**VA RESEARCH & EDUCATION CORPORATION OF THE PACIFIC
NOTE TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
YEAR ENDED DECEMBER 31, 2009**

BASIS OF PRESENTATION

The accompanying schedule of expenditures of federal awards includes the federal grant activity of VA Research & Education Corporation of the Pacific and is presented on the cash receipts and disbursements basis of accounting. The information in this schedule is presented in accordance with the requirements of OMB Circular A-133, *Audit of States, Local Governments, and Non-Profit Organizations*. Therefore, some amounts presented in this schedule may differ from amounts presented in, or used in the presentation of the statement of cash receipts and disbursements.

CHOO, OSADA & LEE, CPAs, INC.

CERTIFIED PUBLIC ACCOUNTANTS

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HONOLULU, HAWAII 96816

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**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON
COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL
STATEMENTS PERFORMED
IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

To the Board of Directors
VA Research & Education Corporation of the Pacific
Honolulu, Hawaii

We have audited the statement of cash receipts and disbursements of the VA Research & Education Corporation of the Pacific (a nonprofit corporation) as of and for the year ended December 31, 2009, and have issued our report thereon dated April 20, 2010. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered VA Research & Education Corporation of the Pacific's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the statement of cash receipts and disbursements, but not for the purpose of expressing an opinion on the effectiveness of VA Research & Education Corporation of the Pacific's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the VA Research & Education Corporation of the Pacific's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, that results in more than a remote likelihood that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether VA Research & Education Corporation of the Pacific's statement of cash receipts and disbursements is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to the management of VA Research & Education Corporation of the Pacific in a separate letter dated April 20, 2010.

This report is intended solely for the information and use of the Board of Directors, management, others within the Corporation and federal awarding agencies, and is not intended to be and should not be used by anyone other than these specified parties.

Chow, Orsada + Lee, CPAs, Inc.

Honolulu, Hawaii
April 20, 2010

CHOO, OSADA & LEE, CPAs, INC.

CERTIFIED PUBLIC ACCOUNTANTS

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**REPORT ON COMPLIANCE WITH REQUIREMENTS APPLICABLE TO EACH
MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE
IN ACCORDANCE WITH OMB CIRCULAR A-133**

To the Board of Directors
VA Research & Education Corporation of the Pacific
Honolulu, Hawaii

Compliance

We have audited the compliance of VA Research & Education Corporation of the Pacific (a nonprofit corporation) with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) *Circular A-133 Compliance Supplement* that are applicable to each of its major federal programs for the year ended December 31, 2009. VA Research & Education Corporation of the Pacific's major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs is the responsibility of VA Research & Education Corporation of the Pacific's management. Our responsibility is to express an opinion on VA Research & Education Corporation of the Pacific's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about VA Research & Education Corporation of the Pacific's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination on VA Research & Education Corporation of the Pacific's compliance with those requirements.

In our opinion, VA Research & Education Corporation of the Pacific complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended December 31, 2009.

Internal Control Over Compliance

The management of VA Research & Education Corporation of the Pacific is responsible for establishing and maintaining effective internal control over compliance with the requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered VA Research & Education Corporation of the Pacific's internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on VA Research & Education Corporation of the Pacific's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

This report is intended solely for the information and use of the Board of Directors, management, others within the Corporation, and federal awarding agencies, and is not intended to be and should not be used by anyone other than these specified parties.

Chow, Orinda + Lee, CMAA, Inc.

Honolulu, Hawaii
April 20, 2010

**VA RESEARCH & EDUCATION CORPORATION OF THE PACIFIC
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
YEAR ENDED DECEMBER 31, 2009**

SUMMARY OF AUDITORS' RESULTS

1. The auditors' report expresses an unqualified opinion on the statement of cash receipts and disbursements of VA Research & Education Corporation of the Pacific.
2. No instances of significant deficiencies and material weaknesses in internal controls were disclosed during the statement of cash receipts and disbursements.
3. No instances of noncompliance material to the statement of cash receipts and disbursements of VA Research & Education Corporation of the Pacific were disclosed during the audit.
4. No significant deficiencies in internal control over major federal award programs were disclosed during the audit.
5. The auditors' report on compliance for the major federal award programs for VA Research & Education Corporation of the Pacific expresses an unqualified opinion on all major federal programs.
6. There are no audit findings that are required to be reported in accordance with Section 510(a) of OMB Circular A-133 are reported in this Schedule.
7. The programs tested as major programs included:
 - Office of Naval Research: The Efficacy of Virtual Reality in Treating Post-Traumatic Stress Disorder in U.S. Soldiers Returning from Iraq and Afghanistan Combat Theaters, CFDA No. 12.300
 - U.S. Army Medical Research Acquisition Act: Telemental Health and Cognitive Processing Therapy Rural Combat Veterans with PTSD, CFDA No. 12.420.
8. The threshold for distinguishing Types A and B programs was \$300,000.
9. VA Research & Education Corporation of the Pacific was determined to be a high-risk auditee.

FINDINGS – FINANCIAL STATEMENTS AUDIT

No matters were reported.

FINDINGS AND QUESTIONED COSTS – MAJOR FEDERAL AWARD PROGRAMS AUDIT

No matters were reported.