



POM 821.82
EFFECTIVE DATE: 28 April 2022

By Order of the Surgeon General:

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TO: All members of the Regular Corps and Ready Reserve Corps

SUBJECT: Line of Duty Determination

1. An officer who dies or sustains an illness, injury, or disease (subsequently referred to in this policy as a condition) is not eligible for certain benefits if this condition occurs prior to service, while in an unauthorized absence status, while not on active/inactive duty (for those in the Ready Reserve), or due to a member's misconduct. So, to protect the interests of both the officer and the United States government, the U.S. Public Health Service (USPHS) Commissioned Corps needs to make a Line of Duty (LOD) determination based on an informal or formal investigation that examines:
 - a. Whether or not the condition existed prior to service (EPTS) and if an EPTS condition was aggravated by service in the USPHS Commissioned Corps;
 - b. Whether or not the condition occurred while the officer was on active duty;
 - c. For officers in the Ready Reserve Corps (RRC), while traveling between the officer's home and training/duty site for inactive duty training (see Section 3.c.);
 - d. Whether or not the condition was due to the officer's gross negligence or willful or deliberate misconduct; and
 - e. Whether or not the officer was AWOL or in an unexcused absence when the condition occurred.

Note: Deciding whether the condition was "incurred or aggravated" in the LOD will require case-by-case factual determination.

2. Roles of Personnel Involved in LOD Determination.
 - a. LOD Approving Officer.
 - (1) The Director, CCHQ, will designate an officer to be the LOD Approving Officer. The Approving Officer must have a rank of O-5 or higher.
 - (2) The LOD Approving Officer will oversee the Investigating Officer and make the final determination of in the LOD or not.

- (3) The LOD Approving Officer will retain the paperwork relating to the case in a secure area for the length of time prescribed by the CCHQ record schedule.
 - b. Investigating Officer (IO). The IO is responsible for examining the circumstances surrounding the officer's illness, injury, disease, or death. The Director, CCHQ or designee can create a list of officers who will rotate the IO duties or allow the LOD Approving Officer to find a different IO for each case. Serving as an IO is added to the officer's existing duties. The IO must :
 - (1) Have a rank senior to the officer being investigated.
 - (2) Conduct the investigation in accordance with this POM.
 - (3) Forward the investigatory report and all supporting attachments to the LOD approving officer.
 - c. PHS Officer Being Investigated
 - (1) When an officer incurs or aggravates an injury, illness, or disease while serving in a duty status, the officer must report the medical condition within 72 hours or as soon as possible if the injury or illness is incapacitating, to the officer's supervisor and MAB. Officers in the RRC must report medical conditions within 72 hours even when not in a duty status.
 - (2) Officers in the Ready Reserve or those in the Regular Corps who have reason to believe their condition will require an LOD Determination must ask medical personnel to complete a DA-2173 form. If the officer cannot make this request or if the medical personnel are unable to complete the form, the officer must contact MAB within 48 hours of the officer's release from medical care.
 - (3) Failure to report the injury, illness, or disease in a timely manner will require a written explanation to the officer's supervisor and MAB, and may subject an officer to disciplinary actions in accordance with Commissioned Corps Directive (CCD) 111.02 and appropriate medical notifications.
3. When an LOD is Required. CCHQ must initiate a LOD determination, whether the officer is hospitalized or not, when the following occurs:
 - a. Death of an Officer in any duty status (including travel to and from a duty location). Normally this will be routine;
 - b. Injuries involving: a likelihood of a permanent disability, possible abuse of alcohol or other drugs, the possibility of being self-inflicted, or the possibility of occurring during a period of unauthorized absence or (for the RRC) while not on active duty or traveling between home and the active duty site;
 - c. For those in the RRC, in addition to the situations listed above, CCHQ must make an LOD determination when:
 - (1) The officer incurs or aggravates a condition or receives any medical treatment while serving on active duty, on inactive training status, or, while traveling directly to or from the training site.

- (2) A reserve officer incurs or aggravates a condition while remaining overnight immediately before and between successive periods of Inactive Duty for Training (IDT), and at or in the vicinity of the site of the IDT, if the site is outside reasonable commuting distance from the officer's residence. CCHQ must investigate cases where a reserve officer is injured while traveling to or from the duty location since a personal stop while traveling may render a condition/injury not LOD.
 - d. CCHQ must make a separate LOD determination for each condition where an LOD determination is required unless multiple conditions are linked to a single event.
 - (1) An LOD determination is only valid for a single condition and cannot be reused by the officer to claim subsequent benefits and entitlements after returning to duty without restrictions pertaining to the original condition.
 - (2) CCHQ must initiate a new LOD investigation if the condition recurs after a period of resumed fitness of at least six months and is then subsequently aggravated or otherwise causes the officer to be unfit.
4. LOD Recommendations. CCHQ and any appointed investigator(s) will make one of three recommendations as whether the officer's condition is In the Line of Duty:
 - a. In the Line of Duty (ILOD). ILOD means that the condition was not due to the officer's misconduct and was incurred or aggravated when the officer was present for duty or absent with authority. Service Aggravation occurs when the condition is aggravated by the officer's duties or when there is a permanent worsening of a pre-service medical condition caused by trauma or the nature of service in the Corps. All forms of LOD investigation can rule a condition ILOD.
 - b. Not in Line of Duty (NILOD)-Not Due to Officer's Misconduct.
 - (1) Absent Without Authority. A Formal LOD Investigation will rule NILOD if the officer's condition occurred while the officer was absent without authority; or
 - (2) Existed Prior to Service (EPTS)-Not Service Aggravated (NSA). A Formal LOD Investigation will recommend NILOD-Not Due to Officer's Misconduct when it finds that, based on clear and unmistakable evidence, the officer's condition existed prior to joining the Corps and was not service aggravated. EPTS-NSA conditions include chronic conditions and conditions with an incubation period that would have started before the officer went on active duty.
 - c. NILOD - Due to Officer's Misconduct. This recommendation follows a formal investigation that concluded that the officer's illness, injury, disease, or death was proximately caused by the officer's misconduct or neglect. Only a formal investigation can make this recommendation.
5. Sequence and Processing of LOD Determinations.
 - a. Medical Stage. Most LOD Determinations start with the discovery of an injury, illness, or death. An officer who receives medical treatment under conditions likely to trigger a LOD Investigation must request that the medical personnel complete the medical section of the DA-2173 form, "Statement of Medical Examination and Duty Status." The officer's commanding officer or supervisor must complete the administrative section and send it to MAB.

- (1) If the officer is unable to request that medical personnel complete the form or if they are unable to complete it, the officer (or family member or officer's supervisor in the event of an officer's death) must contact Medical Affairs Branch (MAB).
 - (2) An officer's regional commander or the injured officer must contact MAB to report a potential LOD injury/illness within 72 hours of the injury/illness.
 - (3) MAB will review the DA-2173 or complete the form based on submitted medical records. If necessary to complete the form, MAB will contact the medical personnel who saw the patient. It will then send the form to the ILOD Approving Officer, appointed by the Director, CCHQ, along with a recommendation that the case is ILOD or that the case needs further investigation. If MAB completed the DA-2173, it will send the form to the officer's commanding officer or supervisor.
 - (4) MAB can recommend additional investigation, but will not make a NILOD determination.
- b. Administrative LOD Determination. The LOD approving officer reviews the DA-2173 Form and the MAB recommendation.
- (1) If the Approving Officer decides that the illness, injury, or disease obviously incurred in a duty status, is not likely to result in permanent disability or hospitalization and clearly did not involve misconduct, abuse of drugs or alcohol, or self-injurious behavior, the Approving Officer can issue an administrative LOD determination that the condition is ILOD. The officer will complete a DD Form 261, "Report of Investigation Line of Duty and Misconduct Status".
 - (2) Otherwise, the LOD Approving Officer decides that more investigation is needed, the approving officer will turn the case over to an investigative officer (IO).
 - (3) An Administrative Determination that a condition was ILOD is final (unless appealed), and no further action is required.
- c. Informal LOD Determination. In cases where no misconduct or gross negligence is suspected, the LOD approving officer will direct the IO to conduct an informal LOD investigation. An Informal LOD determination is initiated on a DD Form 261.
- d.
- (1) CCHQ must perform an informal LOD for RRC officers serving in a duty status when no misconduct or gross negligence appears to be involved and:
 - (a) The medical condition involves a disqualifying disease process;
 - (b) The officer requires continuing medical care or treatment beyond the period of duty during which the condition was incurred or aggravated;
 - (c) The officer requires hospitalization. Note: Visits to the Emergency Room or minor outpatient procedures alone do not constitute hospitalization; or

- (d) When the Eight Year Rule might apply. The Eight Year rule says that a condition cannot be EPTS if the officer has been in the Corps for at least eight years and the officer had been on active duty orders for at least 31 days at the time the condition became a problem.
 - (2) An informal LOD is a quick investigation that can only rule that a condition is ILOD. If the IO concludes that the condition is ILOD, the IO will complete the DD Form 261.
 - (3) If the IO suspects the condition is not ILOD or if the IO suspects misconduct or gross negligence, the IO will request that LOD Approving Officer elevate the investigation to a Formal LOD. The LOD Approving Officer can retain the current IO or appoint a new IO for the Formal LOD.
 - e. Formal LOD Determination. The LOD Approving Officer may appoint a new IO to undertake a Formal LOD Investigation or continue with the IO from the informal LOD Determination.
 - (1) Only a Formal LOD Investigation can issue a recommendation of NILOD unless the condition is EPTS- Not Service Aggravated (NSA) and there is no indication of misconduct.
 - (2) The Director, CCHQ, or the LOD Approving Officer may also require a Formal LOD determination when the officer's illness, injury, disease, or death occurred: under strange or doubtful circumstances; potentially involved the abuse of alcohol or other drugs; could be due to suspected self-inflicted injuries or suspected suicide (and attempted suicide); while AWOL; while traveling between home and duty station or authorized training; when directed by a higher authority; while participating in authorized training or duty; or under any circumstances the director believes need to be fully investigated.
6. Conducting a LOD Investigation
- a. The IO will investigate as necessary to determine if an officer's condition took place ILOD or not. This investigation may consist of reviewing medical records or determining when and where an accident took place.
 - (1) For example: automobile accidents occurring more than 50 miles from a reservist's training or duty site (normal commuting distance) or more than 90 minutes before or after the scheduled drill must be fully explained in the LOD Investigation, indicating the circumstances.
 - (2) Suicide.
 - (a) Suicide and attempted suicide refers to a death (or attempted death) resulting from purposeful action intended to result in one's own death. In order for suicide to constitute willful misconduct, the act of self-destruction must be intentional.

- (b) A person of unsound mind is incapable of forming intent (mens rea, or guilty mind, which is an essential element of crime or willful misconduct). Whether a person, at the time of suicide or attempted suicide, was so unsound mentally that the person did not realize the consequence of such an act, or was unable to resist such impulse, is a question to be determined in each individual case, based on all available lay and medical evidence pertaining to the members' mental condition at the time of suicide.
 - (c) The act of suicide or attempted suicide is, in and of itself, considered evidence of mental unsoundness. If there is no reasonably adequate motive for suicide, as shown by the evidence, an investigation must consider the act to have resulted from mental unsoundness. A reasonably adequate motive for suicide may only be established by probable cause showing circumstances that could lead a rational person to self-destruction.
 - (d) In all instances, any reasonable doubt should be resolved favorably to support a determination of in the LOD.
 - b. Presumption of LOD Status. A LOD Investigation starts with the presumption that a condition sustained by an officer was ILOD unless the evidence clearly shows otherwise or raises a question as to whether the condition is due to the officer's misconduct or progressed to unfitness as the result of intervening events when the officer was not in a duty status.
 - c. Standard of Proof for LOD Determinations. Except where otherwise specified in this POM, the IO will base its LOD determination on the preponderance of evidence, which is defined as the greater weight of credible evidence.
 - d. At the end of the LOD Investigation, the IO will make a recommendation and report of the evidence to the LOD Approving Officer on the DD Form 261. The LOD Approving Officer will make the Formal LOD Determination.
- 7. Reinvestigation of the Formal LOD Determination.
 - a. Basis for Reinvestigation. The Director, CCHQ may call for a reinvestigation a Formal LOD determination if new and significant evidence indicates a high likelihood of error. An officer's statement or disagreement with the determination does not constitute new evidence. The reinvestigation will be limited to addressing only those issues raised by new evidence.
 - (1) The reinvestigation process is separate from the appeals process. Requesting a reinvestigation does not prevent an officer or next of kin (in the event of a death or severe disability) from a later appeal.
 - (2) The officer or the officer's next of kin (in the event of a death or severe disability) may request reinvestigation of a Formal LOD determination. To do so, the officer or the officer's next of kin must:
 - (a) Within 45 days of receipt of a copy of the final Formal LOD determination, make a written request to the Director, CCHQ.
 - (b) Attach new and significant evidence to the officer's copy of the final Formal LOD determination; and

- (c) Send the package to the Director, CCHQ who will decide whether to call for a reinvestigation.
 - (3) The Director, CCHQ reviews the package to determine if new and significant evidence was submitted. If it was not, the Director, CCHQ will return the package to the requestor without action and with a specific explanation for why it was returned.
 - b. Conducting the Reinvestigation.
 - (1) If the Director, CCHQ determines that a reinvestigation is needed, the Director will work with the LOD Approving Officer to appoint a new IO to reinvestigate the case.
 - (2) The IO ensures he or she has the complete file of the original investigation and the request package with the new evidence.
 - (3) The IO conducts the reinvestigation under the same procedures used for the original formal LOD investigation and documents it on a DD Form 261. The IO will prepare an addendum to the original IO summary. The addendum will address the new evidence and its impact on the case. The IO may recommend a new LOD determination and/or legal review if necessary.
 - (4) The LOD Approving Officer takes final action on the reinvestigation on the DD Form 261.
 - (5) The Director, CCHQ or designee notifies the officer or the officer's next of kin in writing of the result.
 - (6) An officer or next of kin (if the officer is dead or severely disabled) can still appeal the result (See Section 10).
- 8. Appeal of the Final LOD Determination.
 - a. An officer or next of kin (if the officer is deceased or incapacitated) may appeal a final LOD determination for any reason. The appeal is different from a reinvestigation.
 - b. To appeal a final LOD determination, the appellant must declare their intent to appeal, in writing, including the reason(s) for the appeal, to the Surgeon General (SG) or designee, within 30 days of receipt of the LOD determination. The appellant must include a copy of the LOD report that is being appealed.
 - c. The SG or designee will review the appeal and approve the appeal and grant a determination of ILOD, reopen the investigation with a list of points that must be reexamined, or deny the appeal.
 - (1) The SG or designee can request additional information and records from MAB or the ILOD Approving Officer.
 - (2) The appellant has no right to a formal hearing nor to call witnesses to testify.
 - (3) The decision of the SG is final.

9. Use of the LOD Determination.
- a. Medical Benefits for Officers in the RRC. The Government uses LOD determinations to establish, manage, and authorize healthcare for officers in the RRC who do not qualify for TRICARE (such as officers on active duty for less than 30 days). RRC officers may be entitled to hospital benefits and medical pensions in certain circumstances.
- (1) The USPHS Commissioned Corps cannot use an LOD determination to deny an officer emergency medical treatment. However, the USPHS Commissioned Corps will not pay for treatment for conditions ruled to be NILOD. (See Section 6-8 of [CCI 322.06, "Ready Reserve Corps Management."](#))
- (2) Nothing in this instruction prevents emergency medical treatment at a Military Treatment Facility (MTF).
- (3) If a RRC officer goes to a MTF or other emergency medical care site and claims that a condition was caused or aggravated by the officer's actions on duty that medical facility will provide necessary medical care to stabilize the patient. CCHQ will investigate after the patient has been stabilized.
- b. Disability Retirement and Severance Pay. A officer is not entitled to disability separation or retirement if the officer did not incur or aggravate the disability ILOD.
- c. Survivor Benefit Plan (SBP). If an officer dies on active duty and CCHQ rules it ILOD, the officer's surviving dependents may be eligible for benefits under the SBP.
- d. Notwithstanding the above, CCHQ must not use an LOD for:
- (1) Disciplinary Action. The LOD determination process is separate from judicial processes and other disciplinary or administrative actions. Disciplinary and administrative actions must result from an independent investigation.
- (2) Reimbursement of Medical Expenses. An active-duty officer cannot be denied medical treatment based on an LOD determination. Furthermore, an LOD does not authorize recoupment of the cost of medical care from the officer. However, for a RRC officer whose condition is NILOD, the USPHS Commissioned Corps will only provide initial treatment for a diagnosis and any emergency care necessary before the determination is made. Once the USPHS Commissioned Corps rules a condition NILOD, the RRC officer is responsible for any follow up care.
10. This POM will remain in effect until rescinded.

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