

STAFFING

1. **REASON FOR ISSUE:** To revise the Department of Veterans Affairs (VA) policies and procedures for the appointment and advancement of hybrid title 38 (HT38) occupations. The revision to this policy has been done in three phases. This revision covers Phase 3. In Phase 3 the Professional Standards Boards for the occupations of physical therapy assistant; occupational therapy assistant; marriage family therapist; therapeutic radiologic technologist; kinesiotherapist; orthotist and prosthetist; medical records administration; blind rehabilitation specialist; blind rehabilitation outpatient specialist; licensed professional mental health counselor, prosthetic representative; nuclear medicine technologist; occupational therapist; physical therapist; dietitian and nutritionist; medical records technician; and therapeutic medical physicist will be dissolved.
2. **SUMMARY OF MAJOR CHANGES:** This handbook contains mandatory VA procedures on appointing and advancing HT38 occupations. The pages in this issuance replace the corresponding page numbers in VA Handbook 5005. Revised text is contained in brackets. These changes will be incorporated into the electronic version of VA Handbook 5005 that is maintained on the Office of the [Chief Human Capital Officer Website](#). Significant changes include:
 - a. Abolishes Part II, Appendix P, "Procedures for selective hybrid title 38 professional standards board members".
 - b. Abolishes Part II, Appendix U "Procedures for appointing and advancing hybrid title 38 occupations".
 - c. Incorporates language from Appendix U into Part II and Part III.
 - d. Removes requirement of Professional Standards Boards for HT38 occupations.
 - e. Abolishes Part II, Appendix O "Organizational structure location of specific hybrid title 38 professional standards boards".
3. **RELATED DIRECTIVE:** VA Directive 5005.
4. **RESPONSIBLE OFFICE:** Recruitment and Placement Policy Service (059), Office of the Chief Human Capital Officer.
5. **RESCISSION:** None.

Department of Veterans Affairs
Washington, DC 20420

VA HANDBOOK 5005/129
Transmittal Sheet
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CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY OF
VETERANS AFFAIRS:**

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PART II. APPOINTMENTS**CHAPTER 3. TITLE 38 APPOINTMENTS****SECTION A. GENERAL****1. SCOPE.**

- a. **General.** This chapter contains administrative requirements and procedures relating to the appointment of individuals to occupations identified in 38 U.S.C. § 7306, 7401(1), and 7401(3); and employees in those occupations who are appointed under 38 U.S.C. § 7405. This section also applies to medical support personnel appointed under authority of 38 U.S.C., chapter 73 or 74.

NOTE: All references throughout this handbook to occupations identified in 38 U.S.C. § 7401(3) includes those occupations not specifically listed in Section 7401(3) but approved for hybrid status by the Assistant Secretary for Human Resources and Administration/Operations, Security and Preparedness in accordance with the provisions of paragraph 2 below. See appendix III-O for a complete list of hybrid occupations. [] [Requirements for professional standards boards throughout this handbook do not include hybrid title 38 occupations.]

- b. **VHA Central Office Appointments.** Provisions of this section apply to Central Office employees in the occupations indicated in subparagraph a. who are appointed under 38 U.S.C. § 7306, 7401(1), 7401(3), or 7405. The terms “medical center officials” and “facility director or designee” refer in Central Office to the Under Secretary for Health or designee.
- c. **Residents.** Medical and dental residents appointed under 38 U.S.C. § 7406, and podiatry, optometry, and chiropractic residents and trainees appointed under 38 U.S.C. 7405 are included within the scope of this section. The term resident as used in this chapter includes interns.
- d. **Exception from the Competitive Service and the Provisions of 5 U.S.C. Chapter 51.** The appointments of persons under the authority of sections 7306, 7401(1), and 7401(3), and under sections 7405 and 7406 to occupations identified in those sections, are excepted from the competitive service and from 5 U.S.C. chapter 51.

2. AUTHORITY AND RESPONSIBILITY.**a. Designation of Title 38 Hybrid Status for Health Care Occupations**

- (1) The Assistant Secretary for Human Resources and Administration/Operations, Security and Preparedness, subject to the concurrence of the Under Secretary for Health, is delegated the authority to approve health care occupations for conversion to title 38 hybrid status under 38 U.S.C. § 7401(3) provided such health care occupations:

- (a) Are not occupations relating to administrative, clerical, or physical plant maintenance and protective services;

- (b) Would otherwise receive basic pay in accordance with the General Schedule under section 5332 of title 5;
 - (c) Provide direct patient care services or services incident to direct patient care services; and
 - (d) Would not otherwise be available to provide medical care or treatment for Veterans.
- (2) Not later than 45 days before the effective date of an appointment or conversion to a hybrid occupation established under subparagraph (1) above, the Secretary must submit notice of the new hybrid occupation to Congress under the provisions of 38 U.S.C. § 7401(3)(B). The Recruitment and Placement Policy Service (059) is responsible for preparing this notice for approval of the Secretary.
- (3) Prior to submitting notice under subparagraph (2) above, comments shall be solicited from applicable labor organizations and such comments will be included in the notice.
- b. **Effecting Appointments.** Appointments will be effected only by appointing officers (responsible Human Resources Management Officer). These appointing officers will effect appointments after the approval of the qualifications and the selection for appointment has been made by the approving official designated below.
- c. **Approval of Qualification and Selection for Appointment.** The approving authorities for appointment of certain research personnel, residents, and associated health trainees are contained in M-3 and M-8. The approving officials for appointment to positions in VHA under 38 U.S.C., chapter 73 or 74, will be as follows:
- (1) **The Secretary**
 - (a) On advice of the Under Secretary for Health, the approval of the qualifications and selection of all persons to be appointed under the authority of section 7306.
 - (b) The approval of all network and facility directors appointed under the authority of 38 U.S.C., § 7401(1).
 - (c) The approval of network directors appointed under 38 U.S.C., § 7306 (for network directors appointed in the Senior Executive Service, see 5 U.S.C. § 3393 and VA Handbook 5027, Senior Executive Service).
 - (d) The approval of VISN Chief Medical Officers appointed under the authority of 38 U.S.C., § 7401(1).
 - (2) **Under Secretary for Health or Designee in Central Office.** Except as limited by subparagraph (1), the Under Secretary for Health or designee is the approving official for the appointment of all individuals who are appointed in Central Office under 38 U.S.C., chapter 74, irrespective of the type of appointment, title, or grade.

- (3) Network Directors.** Network directors have the authority to appoint chiefs of staff. However, facility officials will continue to forward chief of staff nominations to the VHA Workforce Management and Consulting Office (10A2B). The Workforce Management and Consulting Office will provide a technical review of the nomination, arrange for appropriate approvals and/or reviews with VHA Central Office officials as necessary, and forward the completed nomination to the Network Director for approval.
- (4) Facility Directors.** Except as limited by subparagraphs (2) and (3), the facility Director is the approval authority for the following appointment and assignments.
- (a) Physicians.** The approval of the qualifications and selection of physicians appointed under the authority of sections 7401(1) and 7405, including Associate Chiefs of Staff and physicians in service chief or comparable positions. See appendices II-G2 and II-H1 for procedures for qualifying and appointing physicians to service chief and comparable positions.
 - (b) Dentists.** The approval of the qualifications and selection of dentists appointed under the authority of sections 7401(1) and 7405, including chiefs of dental service or comparable positions and staff dentists. See appendices II-G3 and II-H2 for procedures for qualifying and appointing dentists.
 - (c) Nurses.** The approval of the qualifications and selection of nurses appointed under the authority of sections 7401(1) and 7405. See appendices II-G6 and II-H5 for procedures for qualifying and appointing registered nurses. In addition, the Director may delegate authority to the Nurse Executive to approve the appointment of nurses up to and including Nurse III.
 - (d) Podiatrists.** The approval of the qualifications and selection of all podiatrists appointed under authority of sections 7401(1) and 7405. Refer to appendices II-G4 and II-H3 for procedures for qualifying and appointing podiatrists.
 - (e) Optometrists.** The approval of the qualifications and selection of all optometrists appointed under authority of sections 7401(1) and 7405. Refer to appendices II-G5 and II-H4 for procedures for qualifying and appointing optometrists.
 - (f) Nurse Anesthetists.** The approval of the qualifications and selection of nurse anesthetists, including Chiefs of Nurse Anesthesiology under authority of sections 7401(1) and 7405. Refer to appendices II-G7 and II-H6 for procedures for qualifying and making appointments to Chief, Nurse Anesthesiology positions.
 - (g) Physician Assistants (PA)** The approval of the qualifications and selection of all PAs, including those in Chief Grade under authority of sections 7401(1) and 7405. Refer to appendices II-G8 and II-H7 for procedures for qualifying and making appointments of PAs to Chief Grade.
 - (h) Expanded-Function Dental Auxiliary (EFDA).** The approval of the qualifications and selection of all EFDAs appointed under the authorities of 7401(1) or 7405. Refer to appendices II-G9 and II-H2 for procedures for qualifying and appointing EFDAs. The Director may delegate approval authority for appointments of EFDAs to the Facility Chief of Staff.

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- (i) **Pharmacists.** The approval of the qualifications and selection of all pharmacists, including Chiefs of Pharmacy Service (all grades), clinical pharmacists/pharmacy specialists and program specialists in grades GS-13 appointed under the authorities of 7401(3) and 7405. Refer to appendices II-G15 and II-H8 for procedures for qualifying and appointing chiefs of pharmacy service, clinical pharmacy/pharmacy specialists, and program specialists at grades GS-13 and above. In addition, the Director may delegate authority to the Facility Chief of Staff or to the Chief, Pharmacy Service, to approve the appointment of pharmacists at GS-12 and below, and of Assistant Chiefs, Pharmacy Service at GS-13.
 - (j) **PTs and OTs.** The approval of the qualifications and selection of PTs and OTs for section chief positions and positions at GS-12 appointed under the authorities of 7401(3) and 7405. The Director may delegate approval authority for appointments of other PTs and OTs to the Facility Chief of Staff. Refer to appendices II-G12, II-H14 and II-H9 for procedures for qualifying and making appointments to section chief positions.
 - (k) **Respiratory Therapists.** The approval of the qualifications and selection of all RTs. The Director may delegate approval authority for appointments of RTs to the Facility Chief of Staff appointed under the authorities of 7401(3) and 7405. Refer to appendix II-G11 for qualifying RTs.
 - (l) **LPNs/LVNs.** The approval of the qualifications and selection of all LPNs/LVNs appointed under the authorities of 7401(3) or 7405. The Director may delegate approval authority for appointments of LPNs to Nurse Executive Refer to appendix II-G13 for qualifications.
 - (m) **Chiropractors.** The approval of the qualifications and selection of all chiropractors appointed under authority of sections 7401(1) and 7405. The Director may delegate approval authority for appointments of Chiropractors to the Facility Chief of Staff. Refer to appendices II-G16 and II-H10 for procedures for qualifying and appointing chiropractors.
 - (n) **Other occupations appointed under the authority of 38 U.S.C § 7401(3) or 7405.** The approval of the qualifications and selection of all individuals appointed in occupations listed in 38 U.S.C. § 7401(3) or approved for 38 U.S.C. § 7401(3) hybrid status by the Assistant Secretary for Human Resources and Administration in accordance with the provisions in paragraph 2a of this section. The facility Director may delegate approval authority for appointment of employees in the hybrid occupations (see chapter 3, section A, this part).
- b. **Professional Standards Boards.** See section C of this chapter for provisions relating to the establishment, membership, and functions of Professional Standards Boards.
 - c. **Human Resources Management Officer Responsibilities.** The Human Resources Management Officer will be responsible for:
 - (1) Adherence to administrative and regulatory requirements;
 - (2) Review of each case for completeness before forwarding to VHA Central Office;

- (3) Advising boards on administrative and regulatory requirements pertaining to appointments, advancements and probationary reviews;
- (4) Notifying prospective appointees of their selection.

3. APPOINTMENT REQUIREMENTS AND DETERMINATIONS

a. Preference to Veterans

- (1) The primary consideration in making appointments of physicians, dentists, podiatrists, optometrists, chiropractors, nurses, nurse anesthetists, PAs and EFDAs under 38 U.S.C., chapter 73 or 74, will be the professional needs of VHA. Consistent with this policy, however, veterans will be given preference when qualifications of candidates are approximately equal. This includes qualified disabled veterans and preference eligible as defined in 5 U.S.C. § 2108.
- (2) When candidates for positions identified in 38 U.S.C. 7401(3), are determined to be approximately equally qualified for a particular opening, hiring preference will be given to veterans and preference eligible as defined in 5 U.S.C. 2108. Selections from candidates determined to be approximately equal will be made in the following order:
 - (a) Disabled Veterans who have a service-connected disability of 10 percent or more.
 - (b) Preference eligible under 5 U.S.C. § 2108(3) (C) through (H) other than those above (e.g. disabled Veteran; unmarried widow or widower of a veteran who served on active duty in wartime or other designated service period; spouse of a service-connected disabled Veteran not qualified for civil service employment; mother of a veteran who lost his/her life in wartime or other designated service period; mother of a service-connected permanently and totally disabled veteran.)
 - (c) Preference eligible under 5 U.S.C. § 2108(3)(A) and (B) (i.e., Veterans who served on active duty in wartime or other designated service period.)
 - (d) All other candidates.
- (3) When qualified Veterans apply for appropriate vacancies, it is important that VA health care facilities establish and maintain documentation within HR files to demonstrate that qualified preference eligible and other Veteran applicants received appropriate consideration for positions being filled, and to address the relative qualifications of preference eligible and other Veteran applicants. At a minimum, facilities must be able to demonstrate from the written record why the qualifications of non-selected preference eligible and other Veterans are not approximately equal to those of selected candidates who either lack preference or are non-Veterans, respectively.

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NOTE: The VA is required to follow title 5 Veterans' preference rules when hiring individuals for Hybrid Title 38 position (Graves v. VA 117 M.S.P.R. 697 (2012)). See VA Handbook 5005 Part I, Chapter 4.

b. Dual Employment and Dual Compensation Restrictions

- (1) Except as provided in the subparagraphs below, no full-time employee appointed under authority of 38 U.S.C., chapter 73 or 74, will concurrently hold any other type of paid appointment in VA.
- (2) The following personnel may hold more than one appointment provided it is not contrary to 5 U.S.C. § 5533 and VA Directive and Handbook 5007, Appendix F, Paragraph 3, Pay Administration: full-time personnel appointed under 38 U.S.C. § 7401(3), personnel in occupations listed in 38 U.S.C. § 7401(3) who are appointed on a full-time or part-time basis under 38 U.S.C. § 7405(a)(1)(B), and medical support personnel appointed on a full-time or part-time basis under 38 U.S.C. § 7405(a)(1)(D). A medical resident may serve as an admitting physician on a fee basis in accordance with the criteria in VA Handbook 5007, Pay Administration. Paid trainees in medical support programs funded through the Office of the Chief Academic Affiliations may simultaneously hold part-time, intermittent, or fee basis appointments provided there is no violation of dual compensation restrictions, the trainee is determined to be the best qualified applicant, and the utilization as a trainee is consistent with the provisions of VHA Manual M-8, Academic Affairs. All other personnel appointed under authority of 38 U.S.C., chapter 73 or 74 are covered by the provisions of subparagraph b (2) through b (4). Pharmacy residents appointed under 38 U.S.C. § 7405(a)(1)(D) may be appointed to another position under 38 U.S.C. § 7405 without regard to the restrictions in 5 U.S.C. § 5533.
- (3) Facility directors may appoint, on a lump-sum fee basis, full-time employees from other VA facilities employed in occupations listed under 38 U.S.C. § 7401(1), provided the criteria in paragraph b (4) are met and such an appointment would not be contrary to Department conflict of interest regulations (38 CFR, part 0). Such appointments permit the use of full-time employees on a fee basis at a second VA facility, provided management officials at both facilities agree that the arrangement permits them to meet staffing needs; fees are paid on other than a time basis; and the arrangement results in an employer-employee relationship. (5 CFR, part 304.) Facilities wishing to use this authority should identify the task they need accomplished and compensate the employee on a fee basis for the completion of that task. Appointment of full-time employees covered by 38 U.S.C. § 7401(1) on a fee basis at the same VA facility is not permitted. No consultant, attending, fee-basis, part-time, or intermittent employee will simultaneously hold more than one compensable appointment in VHA unless the outlined criteria are met. The restriction in the preceding sentence applies to appointment at the same facility or at more than one facility.
- (4) For individuals identified in subparagraph b (2), dual appointments may be approved by the facility Director, subject to the following conditions and restrictions:
 - (a) Services are essential to the health care needs of patients.
 - (b) No other equally qualified individual in the specific specialty is available in the locality.
 - (c) There is no violation of dual compensation statutes or VA policies.

- (5) For individuals identified in subparagraph b (2), the following dual appointments will be approved by the facility Director only in exceptional circumstances and if requirements in subparagraph b (4) are met. Officials will ensure that these appointments will not present or lead to a conflict of interest or the appearance thereof. Questions concerning conflict of interest matters may be directed to the Regional Counsel.
- (a) Utilization as a consultant or attending in combination with employment on a part-time or intermittent basis at the same facility;
 - (b) On-facility fee-basis appointment under the schedule of fees in combination with utilization as a consultant or attending at the same facility. (This subparagraph does not apply to outpatient services of off-facility fee-basis personnel in a private office or private clinic, even though consultant or attending services may be performed on the same day.)
 - (c) Part-time or intermittent employees, or currently employed consultants and attendings, in combination with an on-facility fee-basis appointment to perform an operation, give treatment, or perform special duty nursing.
- (6) Recommendations to approving officials should include sufficient information to indicate that dual employment is justified.
- c. **Equal Opportunity for Employment.** Employment actions will be taken on the basis of merit and without discrimination for such reasons as age, race, color, religion, national origin, sex, lawful partisan political affiliation, marital status, physical or mental disability (when the individual is qualified to do the work), or membership or non-membership in a labor organization.
- d. **Member of Family Restrictions.** Employment actions will conform to the restrictions governing the employment of family members as provided in 5 CFR, part 310. (For further guidance, refer to chapter 2, this part).
- e. **Restrictions Regarding Political Activity.** Employees appointed under authority of 38 U.S.C., chapter 73 or 74, are subject to the political activity restrictions in 5 U.S.C., chapter 73 and VA Handbook 5025, Legal.
- f. **Qualification Standards**
- (1) **General.** The basic qualification requirements for individuals appointed under 38 U.S.C., chapters 73 and 74, in occupations identified in sections 7401(1) and 7401(3), are contained in VA Qualification Standards approved by the Secretary of Veterans Affairs upon recommendations of the Under Secretary for Health. These standards apply to all appointments in these occupations under authority of 38 U.S.C., chapter 73 or 74, regardless of the nature or tenure of the appointment.
 - (2) **Qualification Standards for Occupations.** The qualification standards for individual occupations are contained in appendix II-G of this chapter.

(3) **Education**

(a) Approved schools and satisfactory internships or their equivalents for the purpose of 38 U.S.C. § 7402, will be those designated in the appropriate qualification standards. The accrediting agency or body for verifying education of applicants is also identified in the qualification standards.

(b) Provisions of 38 U.S.C., chapter 73 or 74, require that individuals have education and licensure, registration or certification as specified in the appropriate qualification standard in order to qualify for assignment of patient care responsibility. Unless otherwise indicated in the qualification standard, an unlicensed candidate may not use professional education as a substitute for the accredited education and/or training required by the qualification standards of another occupation. For example, an unlicensed physician may not be appointed as a PA by using graduation from medical school as a substitute for completion of an approved PA training program. Likewise, an unlicensed dentist may not be appointed as an EFDA by using graduation from dental school as a substitute for completion of approved dental assistant or hygienist training.

(4) **Grade Level Determinations.** The grade to which an applicant is appointed will be determined by the individual's qualifications and assignment. Under the Title 38 "rank-in-person" system, candidates are to be appointed at the highest grade or level within the grade for which they are fully qualified up to the full performance level. For positions above the full performance (journey level) the complexity of the assignment and scope of responsibility are considered in determining grades.

g. **Citizenship**

(1) To be eligible for appointment in VHA, an applicant must be a citizen of the United States (U.S.), except as provided in 38 U.S.C. § 7407(a) and subparagraph (2). The acquisition of "first papers" or the "owing of allegiance to the United States" does not satisfy the basic requirement of citizenship. Naturalized citizens must furnish evidence of citizenship.

(2) After a determination is made that it is not possible to recruit qualified citizens, necessary personnel may be appointed on a temporary basis under authority of 38 U.S.C. § 7405 without regard to the citizenship requirements of 38 U.S.C. § 7402 or any other law prohibiting the employment of or payment of compensation to a person who is not a citizen of the United States. Candidates must meet all other requirements for the grade and position concerned.

(3) Requests to petition the U.S. Department of State (DOS) for waiver of the 2-year home residence requirement under 22 CFR, part 514 must be approved VHA Workforce Management and Consulting Office (10A2A). Requests to petition DOS will be submitted in accordance with instructions contained in appendix II-J of this chapter and [VHA Handbook 5005.1](#), "Requests to Petition the United States Department of State for a Waiver of the Two-Year Home Residency Requirement on Behalf of an Exchange Visitor". No appointment may be effected or commitment made until the required approval is received from the U.S. Citizenship and Immigration Service's (USCIS), formerly the Immigration and Naturalization Service.

- (4) Officials of VHA will not commit positions to noncitizens not legally entitled to reside in this country.
- (5) Consistent with provisions in this paragraph, the appointment of noncitizens may be approved by the following officials:

(a) The facility Director is the approval authority for appointment of:

- i. All noncitizens as residents (see M-8, Pt. II);
- ii. Immigrants (aliens who have been admitted for permanent residence.) As of September 20, 1994, all immigrants are required to have an Alien Registration Receipt Card, Form I-551. Form I-551 has the lawful holder's photograph, fingerprint and signature on a white background; it is commonly known as the "green card."

NOTE: The Form I-151 and all previous forms are no longer valid after September 19, 1994.

- iii. All nonimmigrants (e.g., exchange visitors, alien students, visiting professors), provided employment is authorized by the USCIS. This includes authority to sponsor an individual for a nonimmigrant visa or an extension of such visa. The authorization for employment may be cited on the nonimmigrant's visa, or the nonimmigrant may possess an Employment Authorization Form (I-688B). In cases where the authority to accept compensated or non-compensated employment by the nonimmigrant is not clearly evident, a report of contact with USCIS officials verifying the employment authorization must be made. A copy of the document used to verify the employment authorization of the nonimmigrant is to be filed in the appointee's personnel folder.

(b) The Under Secretary for Health or designee is the approval authority for the appointment of noncitizens to centralized positions.

(c) The paid appointment of noncitizen associated health trainees is not generally permitted. Any exception requires the approval of the Under Secretary for Health, or designee. (See section G, paragraph 6, this chapter.)

h. **Credentialing Requirements (Including License Registration or Certification).** See section B of this chapter.

i. **LEIE and HIPDB Sanction List.** See chapter 1, section B, paragraph 2 of this part.

j. **English Language Proficiency.** No person will be appointed under authority of 38 U.S.C., chapter 73 or 74, to serve in a direct patient-care capacity in VHA who is not proficient in written and spoken English. (See appendix II-I of this chapter).

k. **Physical Requirements**

(1) **General**

(a) Guidelines for physical and mental fitness for appointment and retention in VHA shall be established by the Under Secretary for Health. (See VA Directive and Handbook 5019, Part II, Occupational Health.)

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- (b) Only those persons who are physically and mentally capable of satisfactorily performing the duties of their assignments are to be employed and retained in VHA.
- (c) Determinations of physical and mental fitness will be made without discrimination for such reasons as age, race, color, religion, national origin, sex, lawful partisan political affiliation, marital status, physical or mental disability (when the individual is qualified to do the work), or membership or non-membership in a labor organization.

(2) **Pre-employment Physical Examinations**

- (a) **General.** A pre-employment physical examination is required of all full-time, part-time and intermittent employees. It is not required of residents and interns who furnish evidence of satisfactory physical condition based on a physical examination within the past 12 months. An examination is required in any conversion action from a status not requiring a physical examination to one requiring such procedures.
- (b) **Scope and Conduct of Examination.** See VA Directive and Handbook 5019, Part II, Occupational Handbook.

I. **Oath, Affidavit, and Declaration of Appointee**

- (1) All employees of VHA appointed under authority of 38 U.S.C., chapter 73 or 74 (except those utilized on a fee basis) are required to take the oath of office and execute the affidavit (subversive activity), affidavit (striking against the Federal Government), and the declaration of appointee. Noncitizens shall be required to execute only those affidavits on Standard Form (SF) 61, Appointment Affidavit, outlined in the OPM Guide to Processing Personnel Actions. The SF 61 shall be executed in accordance with the requirements set forth in chapter 2, section A, paragraph 5e of this part.
 - (2) Only employees delegated the authority will administer the oaths necessary for effecting appointments in VHA.
- m. **Security Requirements for Employment.** See VA Directive and Handbook 0710, Personnel Suitability and Security Program for VA instructions concerning security requirements.
- n. **Effective Date of Appointment.** Appointments will be effective on the entrance-on-duty day, except as follows:
- (1) **Full-Time Physicians, Dentists, Podiatrists, Optometrists, Chiropractors, and Other Personnel Appointed Under 38 U.S.C. § 7306.** When an appointee is to enter on duty on Monday, the appointment will be effective on the preceding Sunday provided the employee is available for duty on that day. Sunday will be considered an administrative non-duty day. If Monday is a holiday, the appointment will be effective on the entrance-on-duty-day.
 - (2) **Nurses, Nurse Anesthetists, PAs, EFDAs, and Hybrid Title 38 occupations.** When the appointee is to enter on duty on the first Monday in a pay period, the appointment will be effective on the first Sunday of the pay period. If Monday is a holiday, the appointment will be effective on the entrance-on-duty-day.
 - (3) **Restoration After Military Service or Compensable Injury.** An exception to these effective dates may be made if required to satisfy statutory or regulatory provisions such as restoration after military service or compensable injury.

- o. **Overseas Employment.** See chapter 1, section C of this part.

Grade and/or Step Adjustments. If, on review of board actions by the appropriate Professional Standards Board, it is determined that an employee has been appointed at a grade and step rate within the grade which is not commensurate with qualifications, the approving authority for initial appointment may approve an adjustment in the grade and/or step rate within the grade. (See section E, paragraph 2, this chapter, for limitations on adjusting step rates within the grade for this purpose.) These adjustments in grade and/or step rate will be effected as of the beginning of the next pay period following approval. The nature of action on SF 50-B will be "Promotion" or "Change to Lower Grade," as appropriate. In the case of step rate adjustments, the nature of action on SF 50-B will be "Administrative Pay Increase" or "Administrative Pay Decrease," as appropriate. The authority for such actions will be "38 U.S.C. § 7403." The following statement will be placed in "Remarks" on SF 50B for such actions: "Adjustment for consistency with standardized qualification requirements."

NOTE: Service in a lower step rate prior to adjustment of step(s) within the grade will not be credited toward meeting the required waiting period for periodic step increase.

4. PROBATIONARY PERIOD

a. Requirement to Serve a Probationary Period

- (1) Full time permanent appointments of physicians, dentists, podiatrists, optometrists, chiropractors, nurses, nurse anesthetists, PAs, and EFDAs made under authority of section 7401(1) are subject to a two-year probationary period requirement as specified in 38 U.S.C. 7403(b)(1). **NOTE:** Full time temporary appointments under 38 U.S.C. 7405(a)(1) are excluded from the requirement to serve a probationary period, and service in this time-limited capacity is not creditable towards a probationary period as specified in 38 U.S.C. 7403(b)(1).
- (2) Individuals appointed as of May 5, 2010, as part time or intermittent Registered Nurses (RN) under 38 U.S.C. 7405(a)(1), are subject to a two-year probationary period requirement, except as provided below. Upon completion of the probationary period, the appointments are no longer considered temporary. The following appointments are considered temporary, thus are not subject to a probationary period. These appointments are on a time limited basis of three years or less:
 - (a) Part time or intermittent appointments resulting from an academic affiliation or teaching position in a nursing academy of the Department;
 - (b) Appointments as a result of a specific research proposal or grant; or
 - (c) Appointments of non-United States citizens under 38 U.S.C. 7407(a).
- (3) Full time permanent appointments of hybrid title 38 employees made under authority of section 7401(3) are subject to the one-year title 5 probationary period requirements (see chapter 2, section A, paragraph 9, of this part).

- (4) Employees who satisfactorily completed the probationary period required by 38 U.S.C. 7403(b) will not serve a new probationary period upon reappointment unless their separation was for cause.

a. Purpose of Probationary Period

- (1) The probationary period is an extension of the appointment process. It provides the final test of the appointee's qualifications, i.e., actual performance on the job. During the probationary period, the employee's conduct and performance will be closely observed. The employee may be separated from the service if not found fully qualified and satisfactory. Thus, the probationary period provides a safeguard against retention of any person who, despite having met legal and regulatory requirements for appointment, is found in actual practice to be unsuited for retention in the Veterans Health Administration (VHA). Retention of employees during the probationary period shall be contingent upon demonstrating that they are fully qualified and satisfactory. Only those employees who satisfactorily complete the probationary period shall acquire status as permanent employees in VHA.
- (2) The probationary period also affords an opportunity for fostering the interest of the employee in a VA career. Thoughtful and considerate treatment during the probationary period will have a lasting effect on the employee's career.

b. Length of Probationary Period

- (1) The probationary period for employees appointed under 38 USC 7401(1), as well as employees appointed as part time or intermittent RNs under 38 U.S.C. 7405(a)(1), on or after May 5, 2010, is two years. The probationary period for part time RNs is computed based on calendar time, in the same manner as for full time employees.
- (2) The probationary period for intermittent RNs is computed based on 1 day of credit for each day or part of a day in pay status. Individuals appointed as intermittent RNs must

serve 520 days in a pay status to complete the required 2-year probationary period. The probationary period, however, cannot be completed in less than 2 calendar years.

- (3) Probationary requirements for hybrid employees appointed under 38 USC 7401(3) is the same as those for title 5 employees and can be found in chapter 2, section A, this part. The calculation for part time and intermittent creditable service is the same as above.

d. Last Day of Probationary Period

- (1) For full time employees paid on a daily basis (physicians, dentists, podiatrists, optometrists, and chiropractors), the probationary period ends at midnight on the last calendar day before the employee's anniversary date, whether or not the employee is in a duty status that day. For example, a probationary period beginning November 1, 2011 would normally end at midnight on October 31, 2013.

- (2) For full time and part time employees paid on an hourly basis (RNs, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries,) the probationary period is completed at the end of the last scheduled tour of duty before the employee's anniversary date. For the purposes of this paragraph, scheduled duty includes normal and overtime duty, leave, excused absence, including holidays, and absence without leave. For example, an employee subject to a two-year probationary period beginning November 1, 2011, is completed as follows:

- (a) For an employee, whose last tour of duty prior to November 1, 2013, occurs at 4:30 p.m. on October 31, 2013, the probationary period is completed at 4:30 p.m. on October 31, 2013.

- (b) For an employee, whose last tour of duty prior to November 1, 2013, is from 11:00 p.m., October 31, 2013 to 7:00 a.m., November 1, 2013, the probationary period is completed at midnight on October 31, 2013.

- (c) For an employee, whose last tour of duty prior to November 1, 2013, (because of days off) is 29, 2013.

- (d) For an employee, whose last tour of duty prior to November 1, 2013, is 4:30 p.m. on October 29, 2013, but he/she calls in sick for scheduled tours of duty on October 30 and October 31, 2013, the probationary period is completed at 4:30 p.m. on October 31, 2013.

- (e) If completed satisfactorily, the employee will automatically complete the required probationary period at the end of the last tour of duty worked or scheduled to work.

a. Creditable Service. The following service is creditable toward completion of the probationary period:

- (1) Continuous service in an appointment under 38 U.S.C. 7401(1), 7306, or part time or intermittent (including temporary) service for RNs appointed under 38 U.S.C. 7405(a)(1).

- (2) Prior satisfactory probationary service of at least 6 months' duration followed by a break(s) in service totaling 1 year or less if the break was not due to separation for cause. A break in

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service is defined for the purpose of this subparagraph as a period during which no service is rendered under 38 U.S.C. 7306, 7401(1), or 7405(a)(1) for part time or intermittent RNs.

- (3) Time spent in a probationary period served under 38 U.S.C. 7403(b) prior to holding some other type of appointment in VHA, if the employee is subsequently appointed under 38 U.S.C. 7401(1), provided all other conditions of subparagraph d are met. Example: A full time RN appointed under 38 U.S.C. 7401(1) in July 2011 accepts a position of Supervisory Health System Specialist (Domiciliary Administrator) under title 5 in December 2012. The individual returns to an RN position under 38 U.S.C. 7401(1) in October 2014. The previous time served as an RN from July 2011 through December 2012 is not creditable towards the completion of the probationary period, because the time served under the title 5 appointment was longer than one year.
- (4) All leave with pay during creditable service.
- (5) Leave without pay during the probationary period is considered creditable service when it does not exceed a total of 40 calendar days for physicians, dentists, podiatrists, optometrists, or chiropractors, or 235 hours for RNs, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries and 110 hours for part time RNs.
NOTE: When determining this total, each hour of leave without pay taken by an RN or nurse anesthetist on the Baylor Plan is to be multiplied by 1.667.
- (6) Time before restoration during which a probationary employee received work injury compensation from the Office of Workers' Compensation Programs.

e. **Periodic Reviews**

(1) **Informal Reviews**

- (a) Supervisors will review the services of employees through observation and evaluation of their performance and conduct during the probationary period. When the employee has had an opportunity to understand performance expectations, the supervisor should consider any inadequacies in performance. The employee's weaknesses should be discussed objectively with the employee and suggestions made for improvement. If the employee's performance is considered good or outstanding in some aspect, this fact should be made known to the employee.
- (b) If the employee's performance or conduct are not satisfactory, the employee's immediate or higher-level supervisor will submit a written request for formal or summary review in accordance with VA Handbook 5021, Part III, Chapter 1. This request will describe the employee's performance and/or conduct deficiencies, and the supervisor's efforts to address the deficiencies, such as counseling, training, modification of assignments, use of preceptors, etc., to assist the employee. The request may be initiated any time during the probationary period and may be made notwithstanding past or pending proficiency ratings or the results of any previous probationary review.
- (c) There may be occasions when conduct or performance issues are so egregious such that patient safety or other conditions warrant a request for formal review absent any discussion or suggestions made for improvement.

(2) **Formal Reviews**

- (a) **Mid Probationary Periodic Review.** Appropriate supervisory officials and Professional Standards Boards have responsibility for periodically reviewing the services of probationary employees for those hired in occupations under 38 USC 7401(1). At a minimum, at least one formal periodic review during the probationary period will be done (typically, following completion of the employee's first Proficiency Report or Performance Appraisal, as appropriate for some title 38 employees).
- i. The Human Resources Management Office will establish monitors to ensure completion of mid probationary periodic reviews.
 - ii. The Professional Standards Board will have access to pertinent employment records including performance evaluations, proficiency reports, counseling reports, or supervisory evaluations. The Board will consider all aspects of the employee's service.
 - iii. If the employee is determined to be performing satisfactorily at the time with no concerns that may warrant referral for a summary review by the Board in accordance with VA Handbook 5021, Part III, Chapter 1, the Chairperson of the Board will record that finding by endorsing the current Proficiency Report or by preparing a separate memorandum report, and the employee will be advised of the finding by the immediate supervisor.
 - iv. If the Board questions whether the employee is fully qualified and satisfactory, the Board is to return the case to the appropriate authorizing official with a recommendation that a summary review of the employee's services be initiated.
 - a. Summary Review by a Professional Standards Board or Separation During Probation. See VA Directive and Handbook 5021, Employee/Management Relations, Part III, Chapter 1.

SECTION C. PROFESSIONAL STANDARDS BOARDS

1. ESTABLISHMENT

- a. Professional Standards Boards (PSBs) act for, are responsible to, and are agents of the Under Secretary for Health for occupations listed in 38 U.S.C. 7401(1), [(with the exception of those occupations under 38 USC 7401(3); See Section F of this part)] and part time or intermittent registered nurses (RNs) in the following matters.

[]

(1) **Podiatrists, Optometrists, Chiropractors, RNs, Nurse Anesthetists, PAs and EFDAs.** In matters concerning appointments, advancements, and probationary reviews for these occupations, PSBs will determine eligibility and recommend the appropriate grade and step for appointment, recommend candidates for advancement, and conduct probationary reviews, when applicable. This includes part time or intermittent (including temporary service) for RNs appointed under 38 U.S.C. 7405(a)(1) since May 5, 2010.

(2) **Physicians and Dentists.** In matters concerning appointments and probationary reviews, PSBs will determine eligibility for appointment and conduct probationary reviews. See VA Handbook 5007, Part IX, Physician and Dentist Pay regarding the role and responsibilities of compensation panels in determining physician and dentist pay for appointments.

- b. Members of boards serve in a dual capacity. They deal with matters in which they must divest themselves of their identity with the particular facility at which they are employed and must become representatives of and primarily concerned with the needs and problems of the entire VHA.
- c. VHA management officials are responsible for ensuring the effective functioning of boards under their jurisdiction.

2. **APPROVING AUTHORITIES FOR BOARD MEMBERSHIP.** The following officials may approve or terminate board membership. A second Chair or Co-Chair may be appointed to a Board when the approving authority determines it is necessary and appropriate to do so. (For composition of boards, see paragraph 5.)

- a. **National Boards.** The Under Secretary for Health, or designee, may approve or terminate membership on National boards, including appointment of the board Chair.
- b. **Regional Boards.** The Under Secretary for Health, or designee, may approve or terminate membership on Regional boards, including appointment of the board Chair.
- c. **VISN Boards.** Except as provided in paragraph 3a, the Network Director will establish VISN boards. The Network Director or designee may approve or terminate membership on VISN boards, including appointment of the board Chair.

- d. **Facility Boards.** The facility Director may approve or terminate membership on facility boards, including appointment of the board Chair. The appropriate service chief or equivalent position will nominate board members and recommend a board Chair.
- e. **Termination of Board Membership.** Appointments to the board under paragraphs 2a through 2d above may be terminated whenever an individual's performance, conduct, or position is incompatible with board membership. Examples include receipt of performance rating of below the fully successful level (or equivalent), breach of confidentiality, failure to attend meetings or to complete assignments in a timely manner, expiration of term as Board member, and election or appointment as a union official.

3. BOARD MEMBERSHIP

- a. Persons selected to serve on boards will be chosen from the most capable, experienced and responsible personnel. Board members must be at a grade and level that is equal to or higher than that of the candidate being considered. Board membership should also be sufficiently broad to cover the range of practice within an occupation and where possible include all grades and levels within an occupation.
 - b. Recommending officials will not serve on boards considering their recommendations. Employees will not serve on boards for which they serve as the approving official.
 - c. Boards may be composed of three or five voting members who were appointed under 38 U.S.C. chapters 73 or 74. However, when necessary, the Under Secretary for Health or designee may appoint other qualified individuals to National boards. One of the members will be appointed as Chairperson of the board. Board membership will also include a Secretary, who may or may not be one of the voting members. The role of the Secretary is to record, prepare and submit notes of the Board proceedings and relevant discussion to the PSB Chair. The Secretary is also responsible for completing page two of VA Form 10-2543 and obtaining Board members' signatures. The signatures of the board members and the approving official may be original, facsimile, or digital.
 - d. The Human Resources Management Officer or designee will serve as technical advisor on all board actions. Attendance at Board meetings by the Human Resources technical advisor is required.
 - e. Upon initial and all subsequent appointments to a Board, whether a facility, VISN, or national Board, all appointees, including the Chair, members, and the Secretary, must take the Professional Standards Board training.
4. **COMPOSITION OF BOARDS.** Whenever possible, PSBs will be composed of three or five employees from the same occupation as the individual being considered. When three or five members from the same occupation are not available, appropriately qualified individuals from other occupations may be appointed, provided the board is composed of a majority of the

employees from the occupation involved (see note below). When the appropriate minimum number of employees in the occupation is not available or the number of employees is too small to provide for an independent review, an alternate board must be used.

5. **BOARD FUNCTIONS.** The primary functions of boards are to:
- a. Review and act on employment applications and determine whether the applicant meets the requirements set forth in VA qualification standards. Sound professional and administrative judgment will be exercised in reviewing applications to ensure that VA obtains the best qualified personnel.
 - b. Review completely an individual's qualifications for advancement by an examination of the personnel folder, proficiency reports or performance appraisals, supervisory evaluations, and other pertinent records; and to make recommendations based on their findings.
 - c. Conduct probationary reviews for individuals appointed under 38 U.S.C. 7401(1), or as part time or intermittent RNs under 38 U.S.C. 7405(a)(1).
 - d. Execute VA Form 10-2543, Board Action.
 - e. National boards make recommendations to the Under Secretary for Health or designee on appointments and advancements, and on probationary reviews of individuals appointed under 38 U.S.C. 7401(1), or as part time or intermittent RNs under 38 U.S.C. 7405(a)(1), which require approval in Central Office. This includes recommendations on requests for promotion reconsideration by registered nurses.
6. **EXCEPTIONS.** The Under Secretary for Health or designee may establish procedures for appointing employees without action by a Professional Standards Board in instances such as:
- a. Temporary appointment under 38 U.S.C. 7405 pending processing by a Professional Standards Board for an appointment under 38 U.S.C. 7401(1).
 - b. Temporary appointment of part time or intermittent RNs pending processing by a Professional Standards Board for a probationary appointment as a part time or intermittent RN under 38 U.S.C. 7405(a)(1)(A). As of May 5, 2010, the time spent under the temporary appointment and prior to Professional Standards Board review for a part time or intermittent RN is creditable towards the completion of the probationary period.
 - c. Conversion of an employee appointed under 38 U.S.C. 7401(1) to an appointment under 38 U.S.C. 7405(a)(1), 7405(a)(2) or 7306.
 - d. Conversion of an employee from an appointment under 38 U.S.C. 7405(a)(1)(A) or 7306 to an appointment under 38 U.S.C. 7401(1) provided the employee had previously completed a probationary period under 38 U.S.C. 7401(1) or 7306 in the same occupation and has had continuous service under 38 U.S.C., chapter 73 or 74 since acquiring such status.
7. **APPROVING OFFICIAL'S DECISIONS.** The approving official's decision is final. This does not preclude employees from requesting promotion reconsideration under the provisions of part III, chapter 4, Sections A or B (whichever is appropriate), of this handbook.

8. ORGANIZATIONAL STRUCTURE OF BOARDS.

- a. **National Boards.** National boards are established to act on appointments, advancements, and probationary reviews for Central Office employees, Regional and VISN PSB members, and for VISN and facility employees where those boards do not exist. National boards also act on promotion reconsideration requests submitted under part III, chapter 4, sections A and B, of this handbook.
- (1) The National Physician and Dentist Professional Standards Boards also act on appointments and probationary reviews.
 - (2) The National Nurse PSB acts on all promotion reconsideration requests from registered nurses and licensed practical/vocational nurses, all appointments, advancements, probationary reviews, and reassignments involving Nurse Executive and Nurse V positions.
 - (3) The National Research Board will consider all appointments and advancements for research employees in accordance with VHA Handbook 1200.03.
 - (4) Other National Boards may be constituted as needed by the Under Secretary for Health.
- b. **Regional Boards.** Whenever necessary, the Under Secretary for Health, or designee, may designate a Regional Board to serve one or more VISNs for designated occupations.
- c. **VISN Boards.** For employees assigned at the VISN level, VISN boards shall consider appointments, advancements, probationary reviews, and reassignments where there are additional basic qualification requirements for the new assignment. For nurses and hybrids, see below.
- (1) **Nurses.** A VISN NPSB shall consider the appointment, advancement, and reassignment (where there are additional basic qualification requirements for the new assignment) for Nurse IV. The appropriate VISN NPSB is identified in appendix II-H5.
- d. **Facility Boards.** Facility boards will be established to act on all appointments and advancements and as delineated in Appendix II-O, this part. For employees occupying positions identified in 38 U.S.C. 7401(1) and for part time or intermittent registered nurses under 38 U.S.C 7405(a)(1), facility PSBs will conduct probationary reviews. For physicians and dentists, PSBs will determine eligibility for appointment and conduct probationary reviews when applicable.

SECTION E. GENERAL APPOINTMENT PROVISIONS UNDER 38 U.S.C. CHAPTER 74

1. APPOINTMENT PROCESSING REQUIREMENTS

- a. **Applications Received by Facilities.** Applications received by facilities will be referred promptly to Human Resources Management Service. The Human Resources Management Officer will review applications for compliance with administrative and regulatory requirements. Candidates who fail to meet these requirements and thus fail to qualify for appointment will be notified by the Human Resources Management Officer. Applications from selectees who meet [VA] requirements for appointment [under 38 U.S.C 7401(1)] will be referred to the appropriate Professional Standards Board (PSB) [for necessary action as follows:

NOTE: See Section F of this part for those occupations under 38 U.S.C. 7401(3):]

(1) Selection and Appointment Action

- (a) The PSB will evaluate qualifications and recommend a grade level and step based on VA qualification standard requirements. Except for physicians, dentists, and podiatrists the board will also recommend a rate of pay with due consideration being given to prior service and professional achievement. (See VA Directive and Handbook 5007, Part II, Pay Administration.) The board will complete the VA Form 10-2543, Board Action, and forward all documents through the approving authority to the Human Resources Management Officer, who will affect the appointment action. For actions, which require the approval of the Under Secretary for Health or designee, the facility board will enter its recommendations on VA Form 10-2543, and forward all documents through channels for approval. On approval, the originals will be returned to the facility or VISN as appropriate.
- (b) For physician service chiefs and comparable positions, see appendix II-H1.
- (c) For podiatrists, see appendix II-H3.
- (d) For optometrists, see appendix II-H4.
- (e) For chiefs of nurse anesthesiology sections, see appendix II-H6.
- (f) For physician assistants (PAs) at Chief Grade, see appendix II-H7.
- (g) For chiefs of pharmacy service (all grades), clinical pharmacy/pharmacy specialists, and program specialists at Grades GS-13 and above, see appendix II-H8.
- (h) For occupational and physical therapists as section chief, see appendix II-H9.
- (i) For registered nurses at grades IV and V, see appendices II-H5.
- (j) For Dentists and EFDAs, see appendix II-H2.
- (k) For doctors of chiropractic, see appendix II-H10.

NOTE: See section B, paragraph 11 of this chapter for provisions relating to Deans Committee recommendations. See M-3 for selection of Medical Investigators and Clinical Investigators appointed under this authority.

(2) **Action When No Facility Vacancy Exists.** When a facility receives an application and no appropriate vacancy exists at that facility, and the applicant wishes employment elsewhere, the HRM Officer will advise the applicant to consult the VHA vacancy database www.vacareers.com for the location of current vacancies. At the applicant's request, the application will be referred for employment consideration to the VA facility of the applicant's choice which has a suitable vacancy.

- b. **Applications Received by Central Office.** If the applicant is to be considered for facility assignment, the application will be referred to the facility of the applicant's choice and processed as provided in subparagraph (1). If the applicant is to be considered for Central Office assignment, an interview may be conducted in Central Office or at a VA facility determined to be more convenient. The appropriate National Central Office PSB will consider the applicant's professional qualifications, enter its recommendations on VA Form 10-2543, and forward all forms to the appropriate approving authority. The Central Office Human Resources Service (05HR3) in Central Office will take the necessary appointment action.
- c. **Applicants Not Recommended for Appointment.** When an applicant is not recommended for appointment, the standards board shall record its findings on VA Form 10-2543, Board Action, and send this form to the approving official. After approval of the Board Action, the applicant will be notified in a letter over the signature of the Facility Chief of Staff or appropriate approving authority that the individual's appointment has not been recommended. The letter will briefly state the basis for the action. The letter should be reviewed by the Human Resources Management Officer for adherence to technical requirements.

2. APPOINTMENT ABOVE THE MINIMUM FOR SUPERIOR QUALIFICATIONS

- a. Full-time, part-time, or intermittent podiatrists, optometrists, chiropractors, nurses, nurse anesthetists, PAs and EFDAs, who meet the qualification requirements for appointment, may have their initial rate of pay fixed at a step rate above the minimum of the appropriate grade in recognition of superior qualifications, experience, and/or achievement exceeding the expected standards for the grade. The initial rate of pay may be set at any step rate within the grade (See VA Directive and Handbook 5007, Part II, Pay Administration.)

NOTE: Physicians and dentists are not eligible for appointment above the minimum rate of the grade. The step rate for a physician or dentist is determined by the number of total years of service the individual has worked in the VHA as reflected by his/her VA service date. However, superior qualifications for physicians and dentists can be addressed through the use of market pay. See part IX of VA Handbook 5007.

- b. Individuals appointed under authority of 38 U.S.C. 7401(3), or under authority of 38 U.S.C. 7405 to occupations identified in section 7401(3), may be appointed above the minimum step of the grade under provision of VA Directive and Handbook 5007. This includes Hybrid Title 38 occupations. The step rate for occupations under 38 USC 7401(3) cannot be based on the number of years of experience alone. The specific criteria for steps above the minimum rate in VA Handbook 5007 Part II, Chapter 3, Paragraph 3b must be justified.
- c. Appointment at a step rate above the minimum shall be based on conclusive evidence of superior qualifications which equates to the step rate assigned. Qualifications used to meet minimum grade level requirements in the qualification standard will not be used to also justify appointment at a step rate above the minimum of the grade. Determinations as to whether an individual should be appointed at a step rate above the minimum will be made fairly, consistently, and according to Agency criteria. The following are examples of appropriate criteria:
- (1) Significant and distinguished contribution in some phase of the appropriate occupation as evidenced by difficult and original research, writing and publications in professional media of stature, or special recognition in teaching or professional practice.
 - (2) Special competence in the occupation as evidenced by service with professionally recognized committees, groups or responsible offices in professional societies above the local level, or consultative services within the occupation. The competence attained must be supported by achievement of renown on a regional or wider basis.
 - (3) Educational preparation that clearly exceeds requirements for the grade, expertise in specialized treatment modalities, outstanding competence as a clinical practitioner, or significant contributions concerning some aspect of the occupation.
 - (4) Eligibility for certification or certification by an American Specialty Board.
 - (5) Certification by the appropriate national certifying body to formally recognize a level of excellence based on demonstrated superior performance in clinical practice, assessment of knowledge, and colleague endorsement.
 - (6) Other appropriate evidence of professional stature.

NOTE: Prior to recommending approval or approving actions based on certification, Professional Standards Boards will verify the possession of such recognition by the individual.

- d. **Processing.** The approval of step rates above the minimum is subject to the following requirements:
- (1) **Nurses.** The facility Director (or Nurse Executive if so delegated), on recommendation, justification, and documentation by the appropriate PSB, may approve the appointment of nurses at any step above the minimum of the grade.
 - (2) **Nurse Anesthetists.** The facility Director, on recommendation, justification, and documentation by the facility PSB, may approve the appointment of nurse anesthetists to any step above the minimum of the grade. Nurse anesthetists appointed on or after May 4, 1993, may not be appointed at a step rate above the minimum for the grade based on

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certification by the Council on Certification of Nurse Anesthetists. Certification is a condition of employment and may not be used as a basis for appointment above the minimum step of the grade on initial appointment or reappointment.

- (3) **PAs.** The facility Director, on recommendation, justification, and documentation by the facility PSB, may approve the appointment of PAs to any step above the minimum of Chief grade or below.

SECTION F. APPOINTMENTS UNDER 38 U.S.C. 7401

1. **GENERAL.** The primary consideration, prior to making selections and appointments under this authority, is to evaluate qualifications and personal characteristics as they relate to what is essential to successful performance of assigned responsibilities. Prior to effecting appointments under this authority, Professional Standards Boards and/or Human Resources for 38 USC 7401(3) occupations), [whichever is applicable], and selecting officials are required to determine that the candidate's professional qualifications, physical and mental capacity, emotional stability, and any other pertinent qualifying factors, warrant a permanent appointment. The use of this appointment authority should essentially provide tenure for the employee and ensure the continuation of quality service for VHA. (See section G for procedures concerning full time temporary, part time, intermittent or fee basis appointments under 38 U.S.C. 7405.)
2. **APPOINTMENTS UNDER 38 U.S.C. 7401(1).** Only full-time permanent appointments of physicians, dentists, podiatrists, optometrists, chiropractors, nurses, nurse anesthetists, PAs, and EFDAs are made under authority of section 7401(1). These appointments are subject to a two-year probationary period requirement as specified in 38 U.S.C. 7403(b)(1). See Sections A and G of this chapter for probationary period requirements for individuals appointed as part time or intermittent registered nurses under 38 U.S.C. 7405(a)(1).
3. **APPOINTMENTS UNDER 38 U.S.C. 7401(3).** Only full-time permanent appointments of hybrid title 38 employees are made under authority of section 7401(3). These appointments are subject to title 5 probationary period requirements (see chapter 2, section A, paragraph 9, this part).
 - a. The Supervisor at the appropriate level will obtain an approval to fill a vacant position in accordance with local procedures. Once approval is obtained the service will initiate recruitment action and contact the servicing Human Resources Office (HRO).
 - b. Before recruitment is initiated, Human Resources will work in collaboration with the Supervisor to determine the eligibility and qualifications requirements that pertain to the assignment and grade level for the position to be filled in accordance with the qualification standards found in VA Handbook 5005, Part II Appendices found in appendix "G". If the supervisor is not a subject matter expert in the profession, the supervisor must consult with the profession's subject matter expert throughout the recruitment and onboarding process for the vacant position.
 - c. Human Resources will determine eligibility and qualifications in accordance with standards found in VA Handbook 5005, Part II found in Appendix "G", document the determination as instructed by VHA national policy office and recommend the appropriate grade to the selecting official for appointments, promotions, reassignments and change to lower grades. The qualification determination for each applicant must be documented by HR completing a separate VHA qualification form for each of the applicants.
 - d. Human Resources will notify candidates who fail to meet the requirements and fail to qualify for appointment.
 - e. Processing requests for promotions, reassignments and change to lower grades in compliance with VA Handbook 5005, Part III, Chapter 4, paragraph 9.

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- f. [Supervisors who are not subject matter experts are required to consult an occupational subject matter expert (SME) when evaluating applications.] The Supervisor and the occupational SME will review applicant(s) referred for selection. This may take the form of a panel.
- g. Once a selection is made the Supervisor will consult with Human Resources and the profession subject matter expert (if applicable), and submit supporting documentation for utilization of pay setting flexibilities (if applicable) found in VA Handbook 5007, Part II, Chapters 2, 3 and 4, pertaining to hybrid title 38.
- h. Medical Center Director/Network Director will (for personnel under their jurisdiction) review and serve as the deciding official on requests for additional steps above the minimum on appointments.

NOTE: For more information on probationary periods, see section A, paragraph 4 of this chapter and VA Directive and Handbook 5021, Part III.

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CHAPTER 4. TITLE 38 AND HYBRID TITLE 38 PROMOTIONS AND INTERNAL PLACEMENTS

SECTION A. PROMOTION OR CHANGE IN ASSIGNMENT AND INTERNAL PLACEMENT OF TITLE 38 EMPLOYEES

1. GENERAL

- a. This section contains instructions and procedures governing the advancement of podiatrists, optometrists, chiropractors, registered nurses (RNs), nurse anesthetists, physician assistants (PAs) and expanded-function dental auxiliaries (EFDAs) appointed under authority of 38 U.S.C. 7401(1) or 7405(a)(1)(A); and medical and dental residents appointed under authority of 38 U.S.C. 7406.

NOTE 1: Residents serving under a disbursement agreement are excluded from coverage under the provisions of this section.

NOTE 2: VHA physicians and dentists are excluded from coverage for promotion procedures as described in this section. See VA Handbook 5007, Pay Administration, Part IX, for guidance for pay regulations and procedures.

NOTE 3: [Promotions for occupations covered under 38 U.S.C. 7401(3) can be found in, Section B of this part.]

- b. The promotion system shall provide advancement opportunities for employees, predicated upon the recognition of the quality of service rendered, additional experience and professional attainment as determined by a thorough review of the employee's individual record.
- c. To meet the criteria for promotion, the individual must meet the criteria for the next higher-grade level in the applicable VA qualification standard. A review of the individual's total record must show evidence that the contribution to VA medical service is of sufficient value to warrant promotion. Potential for continuously greater contribution is also a prerequisite. Reviews and recommendations of professional standards boards [for occupations under 38 U.S.C. 7401(1) and Human Resources for occupations under 38 U.S.C. 7401(3), whichever is applicable,] will be sufficient to ensure that promotion is fully merited and not recommended based on meeting administrative requirements alone. The individual's total record and professional stature will be carefully evaluated and supported by documentary evidence as necessary.
- d. Promotion actions will be taken without regard to age, race, color, religion, sex, national origin, lawful partisan political affiliation, marital status, physical or mental disability (when the employee is qualified to do the work), or membership or non-membership in a labor organization, or any other non-merit factor.
- e. Promotion actions will conform to the restrictions governing the employment of relatives. (See VA Handbook 5025, Legal.)
- f. Promotion and advancement opportunities shall include:

(1) Promotion

- (a) Promotion to a higher grade in recognition of substantially greater service to the patient and VA.
- (b) Promotion to Grade IV or Grade V of the Nurse Schedule, for assignment to positions of nurse anesthetist, Nurse Executive, or other key nursing positions. Key nursing positions refer to registered nurses (other than Nurse Executives) at Nurse IV and above whose grade is based on both their personal qualifications and responsibilities of their assignment. The grades of Nurse Executives are based on the assignment of the individuals. Advancement of other registered nurses and nurse anesthetists to these grades will be based on the VA Qualification Standards for Nurses and Nurse Anesthetists and promotion criteria which cover the complexity and responsibility involved in the specific assignment.

(2) Advancement

- (a) Advancement of Nurses in Grade I to Level 2 or Level 3.
- (b) Special Advancements for Achievement and Performance. (See VA Handbook 5017, Employee Recognition and Awards.)
- (c) Change in assignments for physicians and dentists. (See VA Handbook 5007, Part IX, paragraph 15).

2. PERSONS AUTHORIZED TO ACT ON RECOMMENDATIONS OF BOARDS FOR PROMOTIONS, OR ADVANCEMENTS OR CHANGE IN ASSIGNMENTS

- a. The Secretary shall approve all assignments of physicians and dentists to tier 4 assignments Director grade on the recommendation of the Under Secretary for Health or designee.
- b. Officials authorized to approve promotions, or advancements or change in assignments other than those described in paragraph 2a are set forth in appendix K, this part.

3. PROFESSIONAL STANDARDS BOARDS

See part II, chapter 3, section C, this handbook. []

4. PROMOTION - GENERAL

- a. **Consideration.** Full-time, part-time, and intermittent employees, having attained eligibility for initial appointment on the basis of appropriate qualification standards, shall be considered periodically for promotion in their current occupation. Eligibility for such promotion considerations shall be based upon fully meeting prescribed administrative requirements.
- b. **Promotion to a Higher Grade.** Promotion shall be based on the qualifications (experience, education, and competencies) of the employee and on the nature and complexity of the higher-level position. In addition, when an employee enters a special program where the grade of the employee is restricted by the program, appropriate grade adjustments may be made upon completion of the required period for the special program. The employee may be promoted to the grade and step for which qualified for appointment, provided the administrative requirements for promotion consideration have been met.

- c. **Effective Date.** The effective date of a promotion or an advancement to a higher level within a grade is the 1st day of the pay period following approval by the approving official, but not earlier than the date on which all administrative requirements are met.
- d. **Notification of Eligibility.** Human Resources Management Officers are responsible for assuring that appropriate officials are notified approximately 60 days in advance of the date employees meet the administrative requirements for promotion, except that for podiatrists, optometrists, and chiropractors in Associate or Full grade, physician assistants in Associate grade; and expanded-function dental auxiliaries in Junior grade, notification of consideration for promotion will be made approximately 60 days in advance of the anniversary date of grade. The employee shall also be notified. If the employee is not promoted, these notifications shall continue to be made annually approximately 60 days prior to the anniversary date of grade until a change in grade occurs. A longer period between promotion consideration, not to exceed 3 years, may be established by the approving official when a nurse or expanded-function dental auxiliary does not meet the education or experience requirements.
- e. **Administrative Requirements for Consideration**
 - (1) A current proficiency rating of Satisfactory or higher, or Executive Career Field Performance appraisal of Fully Successful or higher.
 - (2) The experience and education requirements in the appropriate VA Qualification Standards.

SECTION B. PROMOTION AND INTERNAL PLACEMENT OF HYBRID TITLE 38 EMPLOYEES

[1. GENERAL. This section contains instructions and procedures governing promotions of those occupations under sections 7401(3) and 7405 (a)(1)(B) of title 38, United States Code. Promotion is advancement to a higher-grade level and recognizes that an employee is providing a higher level of service to VA.

2. POLICY.

- a. Promotion actions will be taken without regard to race, color, religion, sex, national origin, disability, age, sexual orientation, or status as a parent, or any other non-merit factor, and shall be based solely on job-related criteria.
- b. Promotion actions will conform to the restrictions governing the employment of relatives. (See VA Handbook 5025, Legal.)
- c. All hiring actions will adhere to Veterans Preference requirements as prescribed in Part I, Chapter 4, *Preference to Veterans in Making Hybrid Title 38 Appointments* .
- d. Nothing in this handbook shall be interpreted to diminish hybrid title 38 grievance rights negotiated under any collective bargaining agreement.

3. RESPONSIBILITIES.

- a. Human Resources is responsible for:
 - (1) Before recruitment is initiated, Human Resources will work in collaboration with the supervisor to determine the eligibility and qualifications requirements that pertain to the assignment and grade level for the position to be filled in accordance with the qualification standards found in VA Handbook 5005, Part II Appendices found in appendix "G". If the supervisor is not a subject matter expert in the profession, the supervisor must consult with the subject matter expert throughout the recruitment and onboarding process for the vacant position.
 - (2) Determining eligibility and qualifications in accordance with standards found in VA Handbook 5005, Part II found in Appendix "G" and recommend the appropriate grade to the selecting official for appointments, promotions, reassignments and change to lower grades.
 - (3) Documentation qualification determinations for each applicant by completing a separate VHA qualification form for each of the applicants.
 - (4) Consulting with the profession subject matter expert during the development of the assignment, recruitment and onboarding of the selected candidate.
 - (5) Human Resources will notify candidates who fail to meet the requirements and fail to qualify for appointment.
 - (6) Processing requests for reassignments/change to lower grades in compliance with VA Handbook 5005, Part III, Chapter 4 Section B.

- b. The supervisor at the appropriate level is responsible for:
 - (1) Obtaining an approval to fill a vacant position in accordance with local procedures. Once approval is obtained the service will initiate recruitment action and contact the servicing Human Resources Office (HRO).
 - (2) The Supervisor will review applications referred for selections. Supervisors who are not subject matter experts must consult subject matter experts when evaluating applications. This may take the form of a panel, or consultation with the subject matter expert for the profession.
 - (3) Once a selection is made the Supervisor will consult with Human Resources and the profession subject matter expert (if applicable), and submit supporting documentation for utilization of pay setting flexibilities (if applicable) found in VA Handbook 5007, Part II, Chapters 2, 3 and 4, pertaining to hybrid title 38.
 - (4) Review requests or recommendations for promotions and make recommendations consistent with 5, 6 and 7 below.
- c. The Medical Center Director/Network Director will (for personnel under their jurisdiction) review and serve as the deciding official on requests for additional steps above the minimum on appointments.

4. PROMOTION]

- a. This section contains instructions and procedures governing the promotion of employees who are appointed under sections 7401(3) and 7405 (a)(1)(B) of title 38, United States Code. Promotion is an advancement to a higher-grade level and recognizes that an employee is providing a higher level of service to VA.
- b. The promotion system shall provide advancement opportunities for employees, predicated upon the recognition of the quality of service rendered, additional experience and professional attainment as determined by an examination of the employee's individual record.
- c. To meet the criteria for promotion, the individual must meet the criteria for the next higher-grade level in the qualification standard. Examination of the individual's total record must reveal evidence that the contribution to VA medical service is of sufficient value to warrant promotion. Potential for continuously greater contribution is also a prerequisite. Reviews and recommendations of supervisors and Human Resources will be sufficient to ensure that promotion is fully merited and not recommended based on meeting administrative requirements alone.

[5.] PROMOTION – GENERAL

a. Administrative Requirements for Consideration

- (1) A current performance rating of "Satisfactory" or higher.
- (2) The experience, education, and performance requirements set forth in the qualification standard. Employees must meet the same grade requirements, including the specified

demonstrated accomplishments, as for appointment. Any deviation or exception to these requirements will be limited to those specified in the qualification standard.

- b. **Promotions Based on Additional Experience and/or Education.** Promotions based solely on additional experience acquired by the employee shall be limited to advancements of one grade or grade interval at a time. If an employee has attained a higher level of education that, when combined with their additional experience, is qualifying for a grade higher than the next grade or grade interval, the employee may be promoted to whatever grade in the qualification standard the additional education warrants.
- c. **Processing Procedures** (See appendix III-M, this part)

[6]. PROMOTION CONSIDERATION

- a. **[Eligibility.]** Full-time, part-time, and intermittent employees shall be considered periodically, consistent with 7-b and 7-c below, for promotion in their current occupation. Eligibility for such promotion considerations shall be based upon fully meeting prescribed administrative requirements.

[(1)] Approximately 60 days prior to the date the employee meets the required period for promotion consideration, Human Resources Management Officers will notify the appropriate supervisory officials that the employee is eligible for promotion consideration to the next higher-grade level. The supervisor will notify the employee no later than 30 days prior to the employee's anniversary date. The employee shall then be given 30 days to submit to their supervisor a self-assessment of their qualifications for promotion consideration. Employees may also notify their supervisor in writing that they are declining to submit a self-assessment during this 30-day period. If this is done, the supervisor will proceed with a recommendation. If a self-assessment or declination is not submitted the supervisor will proceed with the recommendation at the end of the 30-day period.

[(2)] The supervisory official will review the duties of the position. If the supervisor is not an occupational subject matter expert, the supervisor must consult with a subject matter expert when considering promotion eligibility. The supervisory official must determine whether the duties being performed meet the definition of a higher-level assignment with the qualification standard. The supervisory official must also take into consideration the information provided in the employee's self-assessment, if provided. Supervisors are to apply position management and make sound management decisions. If the supervisor determines the additional duties were higher level duties that are above the full performance level, the supervisor must determine whether s/he gave other employees in the same position an opportunity to perform the additional duties. The supervisory official is responsible for requesting and obtaining an approval to establish and fill the position in accordance with local procedures. The process and actions taken is to be documented using VHA Form "Request for HT38 Promotion Up to Full Performance Level" or "Request for HT38 Promotion Above Full Performance Level" whichever is applicable.]

- [b.] **Promotion to Grades at or Below Full Performance Level.**

- (1) Promotions to grades at or below the full performance level (see Appendix III-O, this part) will be based on the recommendation of the immediate supervisor, recommendation of approval by the second level supervisor and personnel action approved by Human Resources Officer. Upon receipt of the employee's self-assessment or written declination or expiration of the 30-day time period, the immediate supervisor will make a recommendation on promotion to the second level supervisor. The immediate supervisor's recommendation] is to be acted upon by the second level supervisor within 30 days of the submission of the self-assessment or written declination by the employee or expiration of the 30-day time whichever comes first.
- (2) Employees who have demonstrated the capability to successfully perform at the next higher-grade level will be recommended for promotion. Promotions will become effective on the first day of the first full pay period following approval by the second level supervisor. In no case will the promotion be effected later than the employee's anniversary date unless a future date set by the approving authority and at the election of the employee when doing so would benefit the employee (i.e. an employee is due a within grade increase), and that does not violate law or negotiated agreement.]
- (3) Employees who have not demonstrated such capability will be informed in writing by the immediate supervisor that they are not being recommended for promotion. The written notice will state the reason(s) why the employee does not meet the criteria for promotion. The immediate supervisor may recommend the employee for promotion at a later date if it is determined that the employee has met the appropriate criteria. If not promoted during the intervening period, the employee is entitled to promotion consideration on the next anniversary date of grade. Employees who are not promoted may request promotion reconsideration under paragraph 7 below.

[c.] Promotion to Grades above the Full Performance Level.

- (1) Employees who are eligible for promotion consideration to a grade that requires a combination of personal qualifications and assignment characteristics are to be considered for promotion to such grades on the first anniversary date of their last promotion, provided they meet the administrative requirements. This automatic consideration only occurs on the first anniversary for each grade level. In addition, employees who are selected for supervisory or managerial assignments that warrant consideration for a higher grade and for assignments based on complexity will be considered for promotion on a date other than the anniversary date of last promotion.
- (2) If after reviewing the employee's self-assessment, if submitted, and other relevant material, the appropriate management official (e.g., service chief) determines that the assignment does not meet the qualification standard for a higher grade, that official shall document the reasons for this determination in writing and provide a copy of the determination to the employee. Employees who do not agree with the determination may request promotion reconsideration under paragraph 7 below.
- (3) If the appropriate management official believes the assignment meets the qualification standard requirements for promotion, a request for personnel action is to be prepared and submitted, along with all relevant information to Human Resources for consideration within 30 days. If applicable, the employee will be given a copy of the supervisor's comments relating to the self-assessment. Human Resources Staffing Specialist will review and forward its recommendation on qualifications to the Human Resources Officer, for approval

of personnel action. Human Resources will have no more than 30 days to complete their review. Promotions will become effective on the first day of the first full pay period following approval by the approving official. In no case, will the promotion be effected later than the first day of the first full pay period commencing 60 days after the employee's anniversary date.

- (4) If, under paragraph (2) or (3) above, the appropriate management official or Human Resources Officer does not recommend the employee's promotion, the employee will no longer receive an automatic annual promotion consideration. The appropriate management official may recommend such employee for promotion at any time in the future provided the employee's duties and responsibilities change to the point that the criteria for promotion to the next grade may be warranted. Employees may request promotion consideration by the appropriate management official on subsequent anniversary dates if their duties have changed since they were last considered and the employee believes that these changes meet the criteria in the qualification standard for a higher grade. For the reconsideration process for a denial, see paragraph 7 below.

[7.] PROMOTION RECONSIDERATION AND REVIEW

- a. **Coverage.** This paragraph applies to individuals appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B).
- b. **Notice of Decision.** Employees are to be advised by their supervisors in writing of any decision not to promote them, of the reason(s) for the decision, of their right to request reconsideration, and that reconsideration must be preceded by an informal discussion with their supervisor.
- c. **Informal Discussion.** Employees and their supervisor must meet to discuss the recommendation not to promote prior to the employee submitting a request for reconsideration under paragraph d below.
- d. **Reconsideration Requests**

(1) To Grades at or Below the Full Performance Level

- (a) If promotion to a grade at or below the full performance level (see Appendix III-O, this part) is involved, the employee may, within 30 days of being notified of the decision, submit a written request through the immediate supervisor to the second level supervisor for reconsideration. The employee's written request for reconsideration must indicate when the informal discussion was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper. The Medical Center Director, Network Director, or appropriate higher-level designee (whichever is applicable) may extend the 30-day period at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee's control.
- (b) Second level supervisors are to review the employee's request within 30 days and determine whether to promote the employee. If the second level supervisor determines that a promotion is not warranted, that supervisor will provide the reasons for this decision to the employee in writing.

- (c) If the employee is not satisfied with the explanation of the determination to not promote, the employee can request within 30 days to have the determination reviewed and recommendation made by the next higher-level manager. The employee's request for reconsideration and the supervisor's explanation will be forwarded to the next higher-level manager within 30 days.
- (d) The next higher-level manager will make a recommendation within 30 days and submit through the servicing Human Resources Office to the Medical Center Director, Network Director, or appropriate higher level designee (whichever is applicable), who will make a final decision within 30 days.
- (e) If the promotion is approved, the employee is to be promoted on the first day of the first pay period following a decision by the approving official. In no case, will the promotion be effected later than the first day of the first full pay period commencing 60 days after the employee submits a written request for reconsideration, unless the employee requested an extension to the 30-day period to submit a written request for reconsideration. In such cases, the number of additional days taken by the employee to submit a request will be added to the 60-day time limit. If the promotion is denied, the employee will be provided with a copy of the decision.

(2) For Promotions to Grades above the Full Performance Level

- (a) Within 30 days of the non-promotion decision, an employee may submit a written request for reconsideration to their immediate supervisor. This 30-day period may be extended at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee's control.
 - i. The employee's written request for reconsideration must indicate when the informal discussion (see Paragraph 7 c above) was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper.
 - ii. Immediate supervisors are to review and comment on the employee's request in writing and provide copies of those comments to the employee within 15 days.
 - iii. The immediate supervisor will submit the written reconsideration request and any supervisory comments to the next higher-level supervisor.
- (b) The next higher-level supervisor will review the information submitted by the employee, along with the immediate supervisor's comments, and make a recommendation to Medical Center Director, Network Director, or appropriate higher level designee (whichever is applicable) through Human Resources within 15 days.
 - i. If Human Resources determines that the employee's request does not include when the informal discussion was held or the specific reasons why the employee believes the decision was not proper, Human Resources will return the request to the employee for completion.
 - ii. The employee has 30 days from the date of receipt of the returned request to obtain the additional information and return it to Human Resources. The Medical Center Director, Network Director, or appropriate higher-level designee (whichever is applicable) may extend the 30-day period if the employee is unable to submit the information for good cause shown.

[10.] TEMPORARY PROMOTIONS

- a. An employee may be temporarily promoted to a higher graded position where the grade of the position is based on the complexity of the assignment. The employee must meet the administrative and qualification requirements for promotion and such promotions are to be processed using the procedures in paragraphs 5, 6 and 7 above.
- b. On expiration or termination of the assignment, the grade and salary of the employee will be adjusted in accordance with the provisions of VA Handbook 5007, Pay Administration. In applying the provisions of this handbook, the salary will be adjusted to the salary held previously, unless a higher rate is warranted by reason of periodic step increases. On assignment, the following statement will be placed in the "Remarks" item of the SF 50-B, Notification of Personnel Action: "Employee informed of conditions of temporary grade assignment."
- c. This temporary promotion no longer requires a professional standards board action and will occur without recourse to such board action. The absence of a board action shall not bar an employee from grieving a failure to temporarily promote pursuant to this section under the negotiated grievance procedure or agency grievance procedure as appropriate.

[11.] OTHER GRADE CHANGES

a. Change to Lower Grade

- (1) **General.** As provided by 38 U.S.C. 7403, where an employee's grade level and salary are based on both the nature of the assignment and the employee's personal qualifications, and the assignment is subsequently changed, the grade and salary may be adjusted as appropriate. Such action may be taken by the Under Secretary for Health or designee for Hybrid Title 38 employees in centralized positions and for all Hybrid Title 38 employees in assignments at GS-13 and above; and by the facility Director for all Hybrid Title 38 employees in noncentralized assignments below GS-13. The facility Director may delegate the authority to the Chief of Staff, Associate Director, Nurse Executive, Pharmacy Chief for occupations under their respective purview.
- (2) **Hybrid Title 38 employees.** Employees appointed under authority of 38 U.S.C. 7401(3) and permanent part-time employees appointed under 38 U.S.C. 7405 (a)(1)(B) are entitled to the following grade and pay retention provisions.
 - (a) **Erroneously Graded Assignments.** If an employee's grade is based on both the nature of assignment and personal qualifications and the assignment does not meet the requirements for the employee's grade, the employee shall be eligible for grade and pay retention if the employee has been in grade for at least 1 year. If the employee has been in grade for less than 1 year, the employee shall be eligible for pay retention, and pay shall be set in accordance with 5 CFR, part 536.
 - (b) **Change in Assignment.** If the duties and responsibilities of an employee's assignment change sufficiently, either through gradual erosion or planned management action, so that it no longer warrants the grade level of the incumbent, the incumbent shall be eligible for grade and pay retention provided the incumbent has been in grade for at least 52 weeks. If the employee has been in grade for less than 52 weeks, the employee shall be eligible for pay retention, and pay shall be set in accordance with 5 CFR, part 536.

- (c) **Assignment Change.** If an employee is voluntarily placed in a different assignment which does not warrant the employee's current grade level, the employee will not be eligible for grade retention. The employee's entitlement to pay retention will be determined in accordance with VA Handbook 5007, Pay Administration.
- (d) **Assignment Change for Cause or at the Employee's Request.** If an employee is changed to an assignment which does not warrant the employee's current grade level for cause or at the employee's request, the employee is not eligible for grade or pay retention.

NOTE: Directed transfers or reductions in grade approved under this paragraph will not be considered adverse actions under 38 U.S.C. 7461, provided they are not based on charges related to conduct or performance. The actions are, however, grievable under the provisions of VA Handbook 5021, (Employee/Management Relations).

CHAPTER 5. CONVERSIONS OR CHANGE IN ASSIGNMENTS (TITLE 38)

1. **DEFINITION.** Change in assignment for physicians and dentists will be processed by a Compensation Panel. (See VA Handbook 5007, Part IX.) All personnel actions changing an employee from one type of appointment to another under authority of 38 U.S.C., chapter 73 or 74 and not involving a break in service will be processed as conversions except changes from or to fee-basis appointments under authority of 38 U.S.C. 7405(a)(2) and lump-sum fee-basis appointments of consultants and attending's under authority of 38 U.S.C. 7405(a)(2), and without compensation appointments under 38 U.S.C. 7405(a)(1). These actions will be processed as new appointments. Changes in grades or levels for employees on time limited appointments under 38 U.S.C. 7405(a)(1) will be processed as conversions.

NOTE: Conversion or change in assignment to another appointment giving the employee fewer rights and benefits will not be made until the employee has been advised in writing of the conditions of employment under the new appointment, and the employee has submitted a written resignation or other written evidence clearly indicating voluntary separation from the previous employment.

2. UTILIZATION ON A FEE BASIS

- a. Individuals who render service to VA on a fee basis, such as employees paid according to a schedule of fees or consultants or attending's used by letter of appointment (see part II, section G, this handbook) may not be converted to appointments under the provisions of sections 7306, 7401(1), 7401(3), and 7405(a)(1). Fee-basis employees will be terminated prior to appointment under these authorities.
- b. Full-time, part-time or intermittent employees appointed under sections 7306, 7401(1), 7401(3), or 7405(a)(1), may not be converted to utilization on a fee basis. An employee must resign, or the appointment must be terminated prior to rendering service on a fee basis except for instances in which dual appointment has been approved. (See part II, chapter 3, section A).

3. ACTION BY PROFESSIONAL STANDARDS BOARD OR COMPENSATION PANEL

- a. A PSB will be responsible for making recommendations to the approving authority concerning any conversion action to a probationary appointment under 38 U.S.C. 7401(1) [or Human Resources for those under 38 U.S.C. 7401(3), whichever is applicable], as well as registered nurses appointed part-time or intermittent under 38 U.S.C. 7405(a)(1), and on any conversion involving a change in grade and/or step rate within the grade.
- b. No action by a PSB will be required on conversion from an appointment under 38 U.S.C. 7401(1) or 7401(3) as well as 38 U.S.C. 7405(a)(1) for individuals appointed as part time or intermittent registered nurses, provided the employee has previously acquired permanent status under 38 U.S.C. 7401(1) or 7401(3), or completed a probationary period under 38 U.S.C. 7405(a)(1) for individuals appointed as part time or intermittent registered

nurses, as appropriate, and has had continuous service under 38 U.S.C., chapter 73 or 74 since acquiring such status.

- c. The Board will determine that the employee's past and expected future performance and physical, mental and emotional ability warrants the change in employment status. VA Form 10-2543, Board Action, will be used to document the Board's recommendation to the approving authority official.
 - d. The Compensation Panel will document any change in assignment on VA Form 10-0432a, Compensation Panel Action, along with a recommendation to the approving official.
4. **APPROVAL AUTHORITY.** All conversion actions or change in assignments may be approved by the facility Director except those involving a change in grade or step rate or tier level for which the approving authority is vested in Central Office or where Central Office approval is specifically required.

5. PROCESSING REQUIREMENTS

- a. Personnel actions necessary to effect conversions to appointments or change in assignments under 38 U.S.C., chapter 73 or 74 generally will be effective the first day of the pay period following approval of the conversion or change in assignment except where otherwise specified. When necessary, in order to prevent a break in service caused by the expiration of an appointment prior to the first day of the next pay period, the action may be made effective the first day following the expiration of such appointment.
 - b. The nature of action will indicate conversion or change in assignment to an appropriate excepted appointment under the authority of 38 U.S.C., chapter 73 or 74. For individuals converted to an appointment under 38 U.S.C. 7401(1), as well as individuals converted to an appointment as a part time or intermittent registered nurse under 38 U.S.C. 7405(a)(1), the "Remarks" section of the SF 50-B will, when appropriate, state "Appointment subject to probationary period of 2 years." When appropriate, it will also show the amount of any prior service which is creditable toward completion of the required probationary period or a remark that the probationary period was completed
 - c. A new application is not required for conversions or change in assignments when one is already on file and VA Form 10-2850, 10-2850a, or 10-2850c is not specifically required.
6. **CONVERSION OR CHANGE IN ASSIGNMENTS TO APPOINTMENT UNDER SECTION 7401(1) FROM APPOINTMENT UNDER SECTION 7306.** Employees serving under section 7306 appointments will notify the Under Secretary for Health (10) if they desire full-time appointments under 7401(1). (See part II, chapter 3, section A, this handbook.) A Central Office Professional Standards Board will recommend to the Under Secretary for Health the grade and rate of pay and type of assignment which should be made on conversion. The Central Office Compensation Panel for physicians and dentists will recommend a tier determination to the Under Secretary for Health on changes in

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assignment. On approval of the Board's or panel's recommendation by the Under Secretary for Health, personnel action will be taken to affect the conversion or change in assignment.

7. **CONVERSION TO RESIDENCY APPOINTMENTS UNDER SECTION 7406.** An employee who requests conversion to a residency appointment will apply using VA Form 10-2850b, Application for Residency. The application will be processed in accordance with provisions of M-8, part II, chapter 1.

APPENDIX M. PROCESSING TITLE 38 PROMOTIONS AND ADVANCEMENTS

HOW TO PROCESS A PROMOTION FOR PODIATRISTS, CHIROPRACTORS, NURSE ANESTHETISTS, PHYSICIAN ASSISTANTS, EXPANDED-FUNCTION DENTAL AUXILIARIES, AND TITLE 38 HYBRID OCCUPATIONS		
A		B
S T E P S	If full-time, part-time or intermittent employee is in a	then take these steps for promotion up to the full performance level
1	title 38 hybrid occupation []	Upon receipt of VA Form 5-97, Notice of Pending Personnel Action, the HRM Office will forward the original to employee’s service chief. A duplicate copy will be retained in the HRM office as a suspense copy.
2		The immediate supervisor will notify employee of eligibility for promotion, and employee will be given 30 days to submit self assessment. The immediate supervisor will make a formal promotion recommendation to the approving official based on an evaluation of employee’s self assessment, performance, experience and/or education, as appropriate. Recommendation will meet criteria described in section B, chapter 4, this part. Employees who have demonstrated the capability to successfully perform at the next higher grade level will be recommended for promotion.
3		Upon concurrence of the promotion recommendation by the approving official, the appropriate personnel action will be prepared and submitted along with supporting documentation to the HRM Office. [In no case will the promotion be effected later than the employee’s anniversary date unless a future date, set by the approving authority and at the election of the employee when doing so, would benefit the employee (i.e. an employee is due a within grade increase), and that does not violate law or negotiated agreement.]

4		<p>If promotion is not recommended, the immediate supervisor will notify the employee in writing that they are not being recommended for promotion. The written notice will state the reason(s) why the employee does not meet the criteria for promotion, the right to reconsideration, and that requests for reconsideration must be preceded by an informal discussion with their supervisor. Reconsideration request procedures will follow criteria described in paragraph 7 of chapter 4, this part.</p>
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HOW TO PROCESS A PROMOTION FOR PODIATRISTS, CHIROPRACTORS, NURSE ANESTHETISTS, PHYSICIAN ASSISTANTS, EXPANDED-FUNCTION DENTAL AUXILIARIES, AND TITLE 38 HYBRID OCCUPATIONS		
A		B
S T E P S	If full-time, part-time or intermittent employee is in a	then take these steps for promotion above the full performance level
[1]	title 38 hybrid occupation []	Upon receipt of VA Form 5-97, Notice of Pending Personnel Action, the HRM Office will forward the original to employee's service chief. A duplicate copy will be retained in the HRM office as a suspense copy. (Employees who are eligible for promotion consideration to a grade that requires a combination of personal qualifications and assignment characteristics are to be considered for promotion to such grades on the first anniversary date of their last promotion, provided administrative requirements have been met.)
[2]		The immediate supervisor will notify employee of eligibility for promotion, and employee will be given 30 days to submit self-assessment. The immediate supervisor will make a recommendation for promotion to the appropriate management official (e.g. service chief) based on an evaluation of employee's self-assessment, performance, experience and/or education and assignment. Recommendation will meet criteria described in section B, chapter 4, this part.

[3]	<p>If the appropriate management official determines the personal qualifications and assignment does <u>not</u> meet the qualification standard to warrant promotion above the full performance level, the employee will be notified in writing that they are not being recommended for promotion. The written notice will state the reason(s) why the employee does not meet the criteria for promotion, the right to reconsideration, and that requests for reconsideration must be preceded by an informal discussion with their supervisor. Reconsideration request procedures will follow criteria described in paragraph 7, chapter 4, this part.</p> <p>If the appropriate management official determines the personal qualifications and assignment meets the qualification standard to warrant promotion above the full performance level, the appropriate recommendation will be submitted [to Human Resources for consideration within 30 days.]</p>
[4]	<p>[Human Resources] will examine the personnel folder, supervisory evaluations and all other information furnished. Additional information may be obtained at the direction of [Human Resources. Human Resources will report their findings in a formal notification (memorandum). The Human Resources Officer will review, sign and date the form if compliant with policy.]</p>

HOW TO PROCESS A PROMOTION FOR PODIATRISTS, CHIROPRACTORS, NURSE ANESTHETISTS, PHYSICIAN ASSISTANTS, EXPANDED-FUNCTION DENTAL AUXILIARIES, [AND TITLE 38 HYBRID OCCUPATIONS		
A		B
S T E P S	If full-time, part-time or intermittent employee meets the requirements specified and is a	then take these steps
1	podiatrist, chiropractor, nurse anesthetist, physician assistant, expanded function dental auxiliary	Upon receipt of VA Form 5-97, Notice of Pending Personnel Action, the HRM Office will forward the original to the employee's service chief. The duplicate copy will be retained in the HRM office as a suspense copy.
2		The service will make appropriate recommendation to the Professional Standards Board or Standards Board (through the health care facility Director and Chief of Staff, when appropriate, such as for chiropractors and physician assistants, including concise evaluation based on the criteria in paragraphs 5 and 6 of chapter 4, this part (as appropriate). The Chief of Staff will make recommendations similarly for service chiefs. Significant changes in recent proficiency/performance ratings or unusually high or low elements will be evaluated in terms of promotion consideration. Each of these officials will indicate concurrence or non-concurrence, including specific reasons for such recommendation.
3		The Professional Standards Board or Standards Board will examine supervisory evaluations, and all other information furnished. Additional information may be obtained at the direction of the board. The Board will report their findings and recommendations on VA Form 10-2543, Board Action. All members will sign and date the form (verified facsimile or electronic signatures are acceptable). The board action and all related papers will then be forwarded to the appropriate promotion approving authority listed in appendix III-K. Action by the approving authority is required even though a promotion is not recommended.

4		The approving authority will note the final decision on the Board's recommendation, sign VA Form 10-2543, and take appropriate action.
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HOW TO PROCESS A PROMOTION FOR OPTOMETRIST		
A		B
S T E P S	If full-time, part-time or intermittent employee is an	then take these steps
1	optometrist	Upon receipt of VA Form 5-97, Notice of Pending Personnel Action, the HRM Office will forward the original copy to the employee's service chief. The duplicate copy will be retained in the HRM office as a suspense copy.
2		The service chief will make appropriate recommendation to the VA Central Office Optometry Professional Standards Board through the facility HRM office, including a concise evaluation based on the criteria in paragraph 5 of chapter 4, this part (as appropriate). The Chief of Staff will make recommendations similarly for service chiefs. Significant changes in recent proficiency/performance ratings or unusually high or low performance in any elements will be evaluated in terms of promotion consideration. Each of these officials will indicate concurrence or non-concurrence, including specific reasons for such recommendation.
3		The VA Central Office Optometry Professional Standards Board will examine required documentation as specified in Note 2 and the Central Office Optometry Professional Standards Board checklist. Additional information may be obtained at the direction of the board. The Board will report their findings and recommendations on VA Form 10-2543, Board Action. All members will sign the form. The board action and all related papers will then be returned to the facility HRM office which will be responsible for forwarding to the appropriate promotion approving authority listed in appendix III-K. Action by the approving authority is required even though a promotion is not recommended.

4		The approving authority will note the final decision on the Board's recommendation, sign and date VA Form 10-2543, and return to the facility HRM office which will ensure completion of the promotion or other appropriate action.
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NOTE 1: The Director of Optometry Service and the VA Central Office Optometry Professional Standards Board may be contacted at and communications should be directed to:

APPENDIX O. FULL PERFORMANCE LEVELS FOR HYBRID TITLE 38 POSITIONS

1. **SCOPE.** This appendix contains the full performance levels for hybrid title 38 positions listed under section 7401(3) of title 38, United States Code, or approved for hybrid status under part II, chapter 3, section A, paragraph 2 of this handbook and applies to Veteran Health Administration employees appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B). This appendix is to be used in conjunction with the promotion procedures in section B of Chapter 4, this part.

2. LIST OF POSITIONS AND FULL PERFORMANCE LEVELS

[See the Office of the Chief Human Capital Officer, Recruitment, Placement and Policy Service website for a complete list of hybrid title 38 occupations and full performance levels.