

HOURS OF DUTY AND LEAVE

- 1. REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) policy regarding hours of duty and leave.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** VA Handbook 5011, Part III, Chapter 3 has been revised to provide an enhanced annual and sick leave accrual rate, and maximum annual leave carryover ceiling for 38 U.S.C. 7306 appointees in Title 5 and Hybrid Title 38 occupations. This enhancement will allow non-Title 38 employees to earn 8 hours of annual leave per pay period. For employees in Title 5 and Hybrid Title 38 occupations who were serving on 38 U.S.C. 7306 appointments as of January 8, 2006, this change is retroactive to that date. For employees appointed after January 8, 2006, this change will be retroactive to the first day of their appointment.
- 3. RESPONSIBLE OFFICE:** Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources Management and Labor Relations.
- 4. RELATED DIRECTIVE:** VA Directive 5011, Hours of Duty and Leave.
- 5. RESCISSIONS:** None.

CERTIFIED BY:

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

/s/Robert T. Howard
Assistant Secretary for
Information and Technology

/s/R. Allen Pittman
Assistant Secretary for
Human Resources and Administration

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b. **Leave Charges**

(1) The minimum charge for leave shall be 1 day and multiples thereof for full-time physicians, dentists, podiatrists, chiropractors, and optometrists and a quarter hour (15 minutes) or multiples thereof for nurses, nurse anesthetists, PAs, EFDAs and part-time physicians, dentists, podiatrists, chiropractors, and optometrists. [The minimum charge for leave for 7306 appointees shall be a quarter hour (15 minutes) and multiples thereof.]

(2) Holidays and in-lieu of days granted thereof will not be charged to leave.

4. **ANNUAL LEAVE**

a. **Annual Leave.** The granting of annual leave shall be a matter of administrative discretion as to when and in what amount it may be authorized. Requests for annual leave shall be acted upon in the light of essential medical services and with due regard to the welfare and preferences of individual employees. Employees should be encouraged to take annual leave for at least 2 consecutive weeks each year for purposes of rest and relaxation.

b. **Charging Annual Leave**

(1) **Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs[, 7306 Appointees in Title 5 or Hybrid Title 38 Occupations] and Part-Time Employees.** The minimum charge of annual leave for these employees is one quarter hour (15 minutes) and multiples thereof (see subparagraph (2) and (3) for the formula for computing leave for full time nurses and nurse anesthetists on the Baylor Plan and the 36/40 Work Schedule). When leave is charged because of absence from duty or tardiness, the employee will not be required to work during the period covered by the leave.

(2) **Full-Time Nurses and Nurse Anesthetists on the Baylor Plan.** Such nurses and nurse anesthetists shall be charged 1.667 hours of annual leave for each hour of annual leave taken. Leave shall be charged only for absences from the basic workweek. (For the definition of basic workweek for these employees, see paragraph 2d of chapter 3, part II).

(3) **Full Time Nurses and Nurse Anesthetists on 36/40 Work Schedule.** Such nurses and nurse anesthetists shall be charged leave at a rate of ten hours of leave for every nine hours of absence (charged 1.111 for each hour). Leave shall be charged only for absences from the basic workweek.

(4) **Full-Time Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists [Appointed Under 38 U.S.C. 7401, 7405 or 7306]**

(a) **Minimum Charge.** The charge of annual leave for these employees is 1 calendar day. Charges for leave in excess of 1 day will be in multiples of 1 calendar day. When a scheduled day's work extends over portions of 2 calendar days, leave will be charged for the day on which the greater part of the day's work falls, or for the first day when the day's work is equally divided between 2 calendar days.

(b) **Administrative Nonduty Days.** Although subject to duty 24/7, employees in this category may be granted scheduled days off during the administrative workweek. Employees are not charged annual leave on those administrative nonduty days.

owned conveyance is authorized or approved as being advantageous to the Government, and the employee uses excessive travel time to enable the individual to be absent from assigned duties for such purposes as the taking of leave or the performance of circuitous travel, leave shall be charged for the excessive time. The period to be charged to leave will be based on the facts in each case. Where absence for a part of a day is involved, paragraph 11b is appropriate as a guide in determining the charge to leave for excessive absence by an employee who travels by privately owned conveyance for the individual's convenience.

(2) Travel time used to transfer from one facility to another, when the transfer is arranged for reasons other than for the convenience of the Government, will be charged to annual leave or to leave without pay when annual leave is not available.

g. **Involuntary Leave.** Employees may be placed on involuntary annual leave when the needs of the service dictate. When an employee reasonably may not be regarded as ready, willing and able to work, the employee may be placed on involuntary annual leave or in a leave without pay status, as the employee's leave account and the circumstances may require.

h. **Voluntary Leave Transfer Program.** See paragraph 19 of chapter 2, this part.

5. SICK LEAVE

a. **Sick Leave.** Sick leave shall be granted to employees when they are incapacitated for the performance of their duties because of personal illness, disease, injury, pregnancy and confinement, for necessary medical, dental or optical examination or treatment, or when a member of the immediate family of the employee is afflicted with a contagious disease and requires the care and attendance of the employee; or when through exposure to contagious disease the presence of the employee at the post of duty would jeopardize the health of others.

b. Charging Sick Leave

(1) The minimum sick leave charge for full-time physicians, dentists, podiatrists, chiropractors, and optometrists [appointed under 38 U.S.C. 7401, 7405 or 7306] is 1 calendar day and multiples thereof. When a scheduled day's work extends over portions of 2 calendar days, sick leave will be charged for the day on which the greater part of the day's work falls, or for the first day when the day's work is equally divided between 2 calendar days. No charge to sick leave will be made for absence of these employees on administrative nonduty days.

(2) Except as provided in subparagraph (3), the minimum sick leave charge for full-time nurses, nurse anesthetists, PAs, [] EFDAs, 7306 appointees in Title 5 and Hybrid Title 38 occupations] and part-time employees is one quarter hour (15 minutes) and multiples thereof. Sick leave for these employees will be charged as approved and used.

(3) Full-time nurses and nurse anesthetists on the Baylor Plan shall be charged 1.667 hours of sick leave for each hour of sick leave taken. Full-time nurses and nurse anesthetists on a 36/40 Work Schedule shall be charged 1.111 hours of sick leave for each hour of sick leave taken. Leave shall be

(3) In order to use the maximum amount of sick leave permitted to care for a family member with a serious health condition, an employee must maintain a sick leave balance of at least two weeks.

[(4) Medical and dental residents covered by disbursement agreements shall be granted sick leave in accordance with those agreements.]

(5) **Relation to Family and Medical Leave Act.** Sick leave under paragraph i(2) above does not count towards an employee's entitlement under the Family and Medical Leave Act (5 U.S.C. 6381-6387) unless the employee notifies the leave approving official in advance of intent to substitute sick leave for leave without pay taken under the Family and Medical Leave Act.

(6) **Leave Approving Officials.** Leave approving officials may grant or advance sick leave to title 38 employees as described in paragraph (2); however, approvals or denials are to be consistent with the limitations in paragraph (3) as well as the criteria for approving or advancing sick leave.

(7) **Record Keeping.** Title 38 employees are not covered by the "Federal Employees Family Friendly Leave Act," Pub. L. 103-388. However, to monitor use of this type of leave and to ensure consistency between payroll practices for title 5 and title 38 employees, the record keeping procedures found at 5 CFR 630.408 will be used.

6. ACCRUALS OF ANNUAL AND SICK LEAVE

a. **Accruals for Full-Time Physicians, Dentists, Podiatrists, Chiropractors, or Optometrists [Appointed Under 38 U.S.C. 7401, 7405 or 7306].** Annual and sick leave shall accrue to full-time physicians, dentists, podiatrists, chiropractors, or optometrists during full biweekly pay periods while in a leave with pay status or in a combination of pay and nonpay status. Annual and sick leave will accrue for fractional pay periods as authorized by the Under Secretary for Health (see VHA Supplement, MP-4, part II, tables 1.02 and 1.02.1).

b. **Accruals for Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs[, 7306 Appointees in Title 5 or Hybrid Title 38 Occupations,] or Part-Time Employees.** Annual and sick leave shall accrue to full-time nurses, nurse anesthetists, PAs, EFDAs, [7306 appointees in Title 5 or Hybrid Title 38 occupations,] or part-time employees during each full biweekly pay period while in a leave with pay status or in a combination of pay and leave without pay status. Such an employee who initially enters on duty on the first workday after the beginning of the pay period shall be deemed to have been appointed at the beginning of the pay period, thereby enabling completion of a full biweekly pay period for leave accrual purposes. For example, an employee whose first workday is after a Monday holiday which occurs the first week of the pay period shall be deemed to have been appointed at the beginning of the pay period for leave accrual purposes.

c. **Accruals During Periods of Suspension.** Annual and sick leave shall accrue to full- and part-time employees during a period of suspension provided the employee is restored to duty and it is determined that the suspension was not justified.

d. Accrual Rate

(1) Full-time Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists [Appointed Under 38 U.S.C. 7401, 7405 or 7306]

(a) Annual leave shall accrue for full-time physicians, dentists, podiatrists, chiropractors, and optometrists at the rate of 26 days per leave year.

(b) Sick leave shall accrue for full-time physicians, dentists, podiatrists, chiropractors, and optometrists at the rate of 13 days per leave year.

(2) Full-Time Nurses, Nurse Anesthetists, PAs and EFDAs

(a) Annual leave shall accrue for full-time nurses, nurse anesthetists, PAs and EFDAs at the rate of 8 hours for each full biweekly pay period.

(b) Sick leave shall accrue for full-time nurses, nurse anesthetists, PAs and EFDAs at the rate of 4 hours for each full biweekly pay period.

(3) [Full-Time 7306 Appointees in Title 5 and Hybrid Title 38 Occupations]

(a) Annual leave shall accrue for [full-time 7306 appointees in non-Title 38 occupations] at the rate of 8 hours for each full biweekly pay period [26 days per leave year].

(b) Sick leave shall accrue for [full-time 7306 appointees in non-Title 38 occupations] at the rate of 4 hours for each full biweekly pay period [13 days per leave year.]

(c) [Upon conversion to an appointment, covered by a different leave system, the leave accrual rate for 7306 appointees will be determined based on the applicable regulations and policies for the new leave system].

[(4)] Part-Time Employees

(a) Annual leave shall accrue for part-time employees at rate of 1 hour for each 10 hours in a pay status.

(b) Sick leave shall accrue for part-time employees at the rate of 1 hour for each 20 hours in a pay status.

(c) Hours in a pay status which do not equal the number necessary for a minimum annual or sick leave credit of 1 hour for part-time employees will be carried forward and combined with subsequent pay status hours.

e. **Reduction of Leave Accruals**

(1) **Full-Time Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists [Appointed Under 38 U.S.C. 7401, 7405 or 7306]**

(a) Annual leave accruals for full-time physicians, dentists, podiatrists, chiropractors, and optometrists shall be reduced when the individual has had 1 full pay period of absence without pay in a leave year. This reduction shall be at the rate of 1 day for each full pay period.

(b) Sick leave accruals for full-time physicians, dentists, podiatrists, chiropractors, and optometrists shall be reduced when the individual has had 2 pay periods or more of absence without pay in a leave year. This reduction shall be at the rate of 1 day for each full 2 full pay periods.

(2) **Full-Time Nurses, Nurse Anesthetists, PAs[,] EFDAs[, and 7306 Appointees in Title 5 and Hybrid Title 38 Occupations]**. A full-time nurse, nurse anesthetist, PA[,] EFDA[, or 7306 appointees in Title 5 and Hybrid Title 38 occupations] who are in a nonpay status for the entire leave year shall not earn leave for the year. Leave accruals shall be reduced for a nonpay status of 80 hours or more in a leave year. This reduction shall be at the rate of 8 hours of annual leave and 4 hours of sick leave for each 80 hours in a nonpay status. **NOTE:** *In making this computation each hour a full-time nurse or nurse anesthetist on the Baylor Plan is in a nonpay status shall be considered to be 1.667 hours.* For this purpose, included shall be all hours in a nonpay status (other than nonpay status during a fractional pay period when no leave accrues) while the individual is on the rolls during the leave year in which the leave accrues; excluded shall be a period covered by refund for unearned advance leave. If a reduction in leave credits results in a debit to the annual leave account at the end of the leave year:

(a) The debit may be carried forward as a charge against annual leave to be earned in the next leave year; or

(b) The individual may be required to refund the amount paid to the employee for the period covering the excess leave that resulted in the debit.

(3) **Part-Time Employees.** Since annual and sick leave for part-time employees will be credited only on pay status hours, no necessity exists for reducing accruals without pay absences.

f. **Maximum Leave Accumulation**

(1) **Annual Leave**

(a) **Full-Time Physicians, Dentists, Podiatrists, Chiropractors, or Optometrists [Appointed Under 38 U.S.C. 7401, 7405 or 7306]**. A full-time physician, dentist, podiatrist or optometrist may carry forward not more than 86 days of accumulated annual leave at the end of any leave year.

(b) **Full-Time Nurses, Nurse Anesthetists, PAs or EFDAs.** A full-time nurse, PA, or EFDA may carry forward not more than 685 hours of accumulated annual leave at the end of any leave year.

[(c) **Full-Time 7306 Appointees in Title 5 or Hybrid Title 38 Occupations.** A full-time 7306 appointee in a non-Title 38 occupation is entitled to carry forward not more than 720 hours of accumulated annual leave at the end of the leave year. Upon conversion to another type of appointment covered by a different leave system, any annual leave accumulated while serving as a 7306 (not-to-exceed 720 hours) appointee will remain to the employee's credit until it is reduced through usage to the maximum annual leave accrual limitation of the new position or leave system.

(d) **Part-Time Employees.** A part-time employee may carry forward not more than 240 hours of accumulated annual leave at the end of any leave year except that an employee converted to part-time from full-time may carry forward more hours of unused annual leave as indicated in subparagraphs 1 and 2.

1. The maximum carryover will be the lesser of the number of hours converted to part-time or [the maximum carryover limitation of the employee's former leave system]. For physicians, dentists, podiatrists, chiropractors, and optometrists [appointed under 38 U.S.C. 7401 and 7405], [5 days of annual leave will equal 5 workdays of annual leave which will be converted to 40 hours].

2. When accumulated annual leave of more than 240 hours is reduced by usage so that the balance at the end of the leave year is less than the balance at the beginning of the leave year, such difference may not be restored from earnings in the ensuing year. The accumulated leave ceiling of 240 hours may be restored from subsequent earnings. Accrued annual leave not used during the leave year which would cause the maximum ceiling limitation of 240 hours of the balance to be exceeded at the beginning of the ensuing leave year will be forfeited.

(d) **Restoration of Annual Leave**

1. Annual leave which is lost at the end of a leave year by operation of an accumulated annual leave limit under this chapter because of (1) administrative error when the error causes a loss of annual leave otherwise accruable; (2) exigencies of the public business when the annual leave was scheduled in advance; (3) sickness of the employee when the annual leave was scheduled in advance; or (4) the employee being in a missing status as defined in 5 U.S.C. 5561(5); shall be restored to the employee.

2. The restoration, maintenance, and disposition of annual leave under subparagraph 1 will be accomplished in the same manner as for VA employees subject to the provisions of 5 U.S.C. chapter 63 under sections 6304(d)(2) and (e), 6302(f), and 5562. (See chapter 2, this part). This includes the same leave restoration approval criteria and requirements and, as applicable, maintenance of leave in separate accounts for the prescribed time limit or payment in lump sum for the value of the leave (including payment for claims by separated employees). This entitlement is provided pursuant to authority of 38 U.S.C. 7421.

(2) **Sick Leave.** There shall be no limitation on the amount of accumulated sick leave which an employee may carry forward at the end of a leave year.

(3) **Advanced Leave**

(a) Full-Time Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists [Appointed Under 38 U.S.C. 7401, 7405 or 7306]

1. Annual leave, not to exceed 26 days at any time, may be advanced to full-time physicians, dentists, podiatrists, chiropractors, and optometrists appointed under authority of 38 U.S.C. [] 7401(1)[,] 7405(a)(1)(A) [or 7306], except that such leave for temporary full-time employees appointed under authority of section 7405(a)(1)(A) and full-time 7306 appointees shall not be advanced in an amount in excess of that amount which could accrue during the remainder of the current appointment.

2. Sick leave, not to exceed 45 days at any time, may be advanced to full-time physicians, dentists, podiatrists, chiropractors, and optometrists appointed under authority of 38 U.S.C. [] 7401(1), 7405(a)(1)(A) [or 7306]. However, sick leave shall not be advanced to employees on time limited appointments in an amount in excess of that amount which could accrue during the remainder of the current appointment.

(b) Full-Time Nurses, [Nurse Anesthetists,] PAs, [] EFDAs [and 7306 Appointees in Title 5 and Hybrid Title 38 Occupations]

1. Annual leave, not to exceed 208 hours, may be advanced to [these employees at any time except that leave for employees on time limited appointments shall not be advanced in an amount in excess of that amount which could accrue during the remainder of the current appointment].

2. Sick leave, not to exceed 360 hours, may be advanced to [these employees] at any time. However, sick leave shall not be advanced to employees on time limited appointments in an amount in excess of that amount which could be accrued during the remainder of the current appointment.

(c) Part-Time Physicians, Dentists, Podiatrists, Chiropractors, Optometrists, Nurses, Nurse Anesthetists, PAs[,] EFDAs [and 7306 Appointees in Title 5 or Hybrid Title 38 Occupations]. Part-time employees may be advanced annual and sick leave based on the ratio which their employment bears to full-time employment and the amount of annual and sick leave that may be advanced to a full-time employee covered by subparagraph (3)(a) and (b). For example, a half-time employee who is not on a time limited appointment may be advanced up to 104 hours of annual leave and up to 180 hours of sick leave at any time during the leave year.

(d) Leave Advanced During Time-Limited Appointments. Advance sick and annual leave may not exceed the amount an employee can accrue during the remainder of any time limited appointment.

NOTE: *Sick leave may be advanced to full- or part-time employees irrespective of whether or not there is annual leave to the employee's credit.*

[(e). Long Term Absences and Adoptions. In cases of serious disability, ailments, or for adoption-related purposes, an employee with no time limit in his or her appointment may be advanced sick leave not in excess of 30 days (240 hours). An employee serving under a time limited or term appointment may be granted sick leave up to the total leave that would otherwise be earned during the term of the appointment. There may not be more than 30 days (240 hours) of advanced sick leave on an employee's

record at any one time. In the case of sick leave for family care and bereavement, any or all of the first 5 days (40 hours) used for those purposes each leave year may be advanced. The amount of annual leave to an employee's credit generally will have no bearing on grants of advanced sick leave (5 U.S.C. 6307(d); 5 CFR 630.404.)]

7. OTHER LEAVE

a. Military Leave

(1) A full-time employee appointed under authority of 38 U.S.C. 7306, 7401(1), or 7405 (a)(1)(A) not limited to 1 year or less is eligible for and shall be granted military leave in the same manner as other Federal employees. The granting and charging of military leave contained in chapter 2 of this part for title 5 employees is also applicable to title 38 employees covered under this paragraph. Administrative non-duty days that occur within the period of military service will not be charged to military leave. However, those employees on 24/7 schedules will continue to be charged military leave on a daily basis for duty days.

(2) A part-time employee appointed under authority of 38 U.S.C. 7405(a)(1)(A) not limited to 1 year or less is entitled to leave without loss in pay, time or performance or proficiency rating for active duty or engaging in field or coast defense training under sections 502-505 of title 32, United States Code, as a member of the Reserve of the armed forces or member of the National Guard. Leave accrues for these employees at the rate of 15 days per fiscal year (to be credited at the beginning of the fiscal year) and, to the extent that it is not used in a fiscal year, accumulated for the use in the succeeding fiscal years until it totals 15 days at the beginning of a fiscal year. Scheduled workdays and intervening days for which no work is scheduled falling within a period of absence for this duty are not charged to military leave. This entitlement is provided pursuant to authority of 38 U.S.C. 7421.

b. **Court Leave.** Employees appointed under authority of 38 U.S.C. 7306, 7401(1), and 7405(a)(1)(A) are eligible for and shall be granted court leave in the same manner as other eligible Federal employees.

c. **Home Leave.** Employees shall earn and be granted home leave on the same basis as employees subject to the provisions of 5 U.S.C. chapter 63.

8. RELIGIOUS, STATE AND LOCAL HOLIDAYS

a. **Religious Holidays.** While there is no official observance of religious holidays, except those which may also be national holidays, it is the policy of VA to permit, when practicable, absence from work for those employees who desire to observe religious holidays. Employees may, under provisions of Public Law 95-390, and applicable regulations, elect to work compensatory overtime for the purpose of taking