

HOURS OF DUTY AND LEAVE

- 1. REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) procedures regarding hours of duty and leave.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook sets forth mandatory procedures previously contained in numerous other issuances. Part III, Chapter 3 has been revised to reduce both the annual leave and sick leave accrual rates of physicians, dentists, podiatrists, chiropractors, and optometrists. In conjunction, revisions are made to eliminate leave charges for administrative nonduty days, reduce the amount of the maximum annual leave carryover into the next leave year, and include provisions for the extended use of sick leave to care for a family member with a serious health condition. This policy change is effective as of January 8, 2006.
- 3. RESPONSIBLE OFFICE:** The Human Resources Management Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources and Labor Relations.
- 4. RELATED DIRECTIVE:** VA Directive 5011, Hours of Duty and Leave.
- 5. RESCISSIONS:** None.

CERTIFIED BY:

/s/

Robert N. McFarland
Assistant Secretary for
Information and Technology

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

/s/

R. Allen Pittman
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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.

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

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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 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) for the formula for computing leave for full time nurses and nurse anesthetists on the Baylor Plan). *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 Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists]**

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(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.

c.] **Supervisory Responsibility.** It will be the responsibility of supervisory personnel at all levels to ensure that each employee fully understands the manner of charging for authorized annual leave. []

[d.] **Procedure for Requesting Annual Leave**

(1) Annual leave will be requested in advance by all employees except when unusual or unforeseen circumstances prevent the employee from making the request in advance. Under such circumstances, the employee will notify, as soon as possible, the person authorized to approve leave.

(2) Except as provided in subparagraph (3) below, requests for annual leave not in excess of 3 days may be made verbally. If the request is approved in advance of the dates of requested leave, the employee should enter the request into the Enhanced [T]ime and Attendance (ETA) system. However, if the request cannot be entered into the ETA by the employee prior to the commencement of the leave period, the supervisor will report the amount of leave to be taken to the unit timeclerk who will make proper posting daily in the ETA system. Requests for leave of more than 3 days will be made into the ETA system unless not practicable.

(3) Full-time nurses and nurse anesthetists on the Baylor Plan may verbally request 2 workdays of annual leave and, if approved, enter the request into the ETA system when practicable. Requests for leave of more than 2 workdays shall be made in the ETA system.

NOTE: *Any requests, submitted by nurses, nurse anesthetists, PAs, and EFDAs for annual leave in proximity to overtime by the same employee will be reviewed to assure that the granting of annual leave is in the interest of good administrative practice.*

[e.] **Advanced Annual Leave** (see paragraph 6f(3), this chapter)

(1) Annual leave may be advanced at any time during the calendar year.

(2) All credits of annual leave which become due while there is an indebtedness of annual leave will be applied to the reduction of the indebtedness.

[f.] **Leave in Connection With Travel**

(1) Employees traveling at Government expense are in a duty status for the period required to perform the travel authorized unless the total elapsed travel time is excessive. If travel is interrupted or delayed for the convenience of the employee, leave will be charged for the period of interruption or delay. Where an employee has been authorized to travel by privately owned conveyance for the individual's convenience, leave will be charged for travel time during the employee's regularly scheduled basic workweek in excess of that which would have been required had travel been performed by the carrier used to determine per diem allowance, as provided in MP-1, part II, chapter 2. When use of privately 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

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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 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, and EFDAs 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. Leave shall be charged only for absences from the basic workweek].

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

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c. Procedure for Requesting and Approving Sick Leave for All Employees

(1) **Responsibility for Approving Sick Leave.** It is incumbent on every individual responsible for approving applications for sick leave to ascertain that the circumstances of absence justify approval, and that sick leave is available. If for any reason an employee's statement or the medical certificate furnished is not considered satisfactory, the person authorized to approve leave will take necessary steps to obtain additional evidence in support of the employee's request for sick leave.

(2) **Notification of Illness.** An employee who is absent from duty on account of sickness will notify the person authorized to approve leave or other appropriate persons as early as practicable on the first day of such absence or as soon thereafter as possible.

(3) **Submission of Application.** Sick leave not in excess of 3 days (two workdays for full-time nurses and nurse anesthetists on the Baylor Plan), may be approved without a medical certificate. However, in cases that indicate excessive absence on account of illness or where there appears to be an abuse of the sick leave privilege, medical certificates may be required for any period of absence provided the employee has been informed in advance, in writing, that such a requirement has been established for that person. All requests for sick leave must be entered into the ETA system and will be entered within 2 days after the employee's return to duty unless the leave was requested in advance. Requests for sick leave in excess of 3 days will be supported by a medical certificate or other evidence administratively acceptable, e.g., where a doctor is not available or where the employee's illness does not require a doctor, proper certification, in writing, by the employee may be accepted instead. Medical certificates or other evidence of illness which may be required will be submitted within 15 days after the employee's return to duty.

(4) **Medical Examination for Employees Who Are VA Claimants or Beneficiaries.** Employees who are ordered by proper authority in VA to report for physical examination or observation as claimants or beneficiaries of VA will be granted sick leave. "Authorized absence" will not be granted for this purpose. (See par. 9j for type of leave granted for medical examinations of employees who are not VA claimants or beneficiaries.)

(5) **Medical Treatment for Disabled Veteran-Employees.** On presentation by a veteran employee who has a service-connected disability or any other disability of a statement from medical authority that treatment is required, annual or sick leave will be granted, if available; otherwise, LWOP will be granted. The granting of such leave is mandatory provided that the veteran gives prior notice of definite days and hours of absence for medical treatment (Executive Order 5396, dated July 17, 1930).

(6) **Sickness During Annual Leave.** When sickness occurs during a period of annual leave of any employee, the period of illness may be charged as sick leave and the charge against annual leave reduced accordingly. Application for such substitution of sick leave for annual leave will be made promptly and will be supported by a medical certificate or other evidence determined to be acceptable.

(7) **Sick Leave During LWOP.** When sickness occurs during an approved period of LWOP and lasts 3 or more consecutive days (2 or more consecutive workdays for full-time nurses and nurse anesthetists on the Baylor Plan), the period of illness may be charged to sick leave, in accordance with provisions set

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forth below. It is incumbent on the facility to inform the employee when approving LWOP of the provisions of these subparagraphs with particular emphasis on subparagraph [c(7)](a) [].

(a) Employee immediately on becoming incapacitated notifies the individual's supervisor of illness; or, if unable to do so promptly because of the serious nature of the illness, notifies the supervisor as soon thereafter as possible. The supervisor will advise the employee of the receipt of the notice and that a copy of the notice, with the copy of communication from the supervisor, will be made a matter of record.

(b) Illness will be substantiated by a medical certificate or other acceptable evidence of illness following recovery. At the time the supervisor advises the employee of the receipt of the notification of illness, the employee will also be advised that the provision of this subparagraph will be met promptly.

(c) Sick leave may not be granted during LWOP, but on actual return to duty, substitution will be made for the period of illness providing the foregoing requirements are met. Under no circumstances will sick leave be advanced to cover illness which has occurred during a period of LWOP.

d. **Advanced Sick Leave** (see paragraph 6f(3) this chapter)

(1) A request for advanced sick leave will be supported by a medical certificate.

(2) A full-time employee who is injured in the line of duty and who has exhausted accrued and accumulated sick leave, and who is not in receipt of workers' compensation benefits, may, at the discretion of the approving official, be advanced sick leave not in excess of the maximum outlined in this chapter.

(3) All accruals of sick leave which become due while an employee is indebted for sick leave will be applied to the indebtedness. Advanced sick leave may also be liquidated, at the employee's request, by a charge against an equivalent amount of annual leave provided:

(a) The annual leave is substituted prior to the time it would be forfeited.

(b) The approving official would have been willing to grant the annual leave had the employee requested it.

(4) Only the Under Secretary for Health and facility directors or their designees are authorized to grant advanced sick leave.

e. **Leave for Pregnancy and Confinement**

(1) The services of pregnant employees should be utilized to the extent their health will permit. However, such utilization may not extend beyond the period when an employee fails to meet the physical requirements of the assignment. Therefore, employees will be encouraged to report pregnancy as soon as it is an established fact. The earliest possible knowledge of such condition will provide the opportunity to

protect the employee's health and permit such planning as may be necessary for proper staffing during the employee's prospective absence.

(2) Pregnancy and the physical condition incident thereto will ordinarily be established from medical evidence submitted by an employee's personal physician. However, in those cases when there is any question as to an employee's physical ability to perform her duties without hazard to her health, examination by the facility personnel physician or other appropriate staff physician will be conducted. The date during an employee's pregnancy on which the employee reaches the point of being incapacitated for duty will be determined medically according to the circumstances of the individual case.

(3) An employee will be granted accumulated and accrued sick leave consistent with the medical need therefore when it has been established that she is unable to perform her duties due to pregnancy. In addition, advanced sick leave, annual leave, advanced annual leave, and LWOP may be authorized consistent with the provisions of this chapter.

(4) An employee who expresses the intention to resign because of pregnancy will be informed of entitlement to accumulated and accrued sick leave, consistent with the medical need therefor.

f. Contagious Disease

(1) Sick leave will be granted:

(a) 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.

(b) When, through exposure to contagious disease, the presence of the employee at the post of duty would jeopardize the health of others.

(2) The use of sick leave for contagious disease is authorized in connection with quarantine, isolation, and restriction of movement by the patient or employee. The determination that the disease is contagious will be made by health authorities having jurisdiction, whether the employee or patient is at home or in some other area.

g. Involuntary Sick Leave. Employees who because of illness (mental or physical) are unable to perform their duties may be placed on involuntary sick leave. Such sick leave will be terminated when the employee presents himself or herself for duty and it is determined by competent medical authority that the individual is able to perform his/her duties.

h. Prolonged Illness

(1) Employees who are not expected to return to duty because of prolonged incapacitation will, where possible, be granted all available sick leave and such annual leave that cannot be included in a lump-sum payment.

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(2) Employees who can reasonably be expected to return to duty after a prolonged period of incapacitation may be advanced sick leave and annual leave or granted LWOP.

i. Sick Leave for Family Care and Bereavement

(1) **Definitions.** For purposes of this subparagraph, "family member" means: spouse and parents thereof; children, including adopted children and spouses thereof; parents; brothers and sisters and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(2) **Leave for Family Care.** In addition to the reasons for granting sick leave in this paragraph, leave approving officials may grant or advance sick leave for:

(a) Care of a family member as a result of physical or mental illness; injury; pregnancy; childbirth or medical, dental or optical examination or treatment;

(b) Arrangements necessitated by the death of a family member;

(c) Attending the funeral of a family member; or

(d) Adoption (appointments with adoption agencies, social workers and attorneys; court proceedings; required travel; or any other activities necessary for the adoption to proceed).

(3) **Limitations on Sick Leave for Family Care.** Leave under paragraphs (2)(a) through (2)(c) are limited as follows:

(a) Full-time employees charged leave on a daily basis may take up to [5] days of sick leave in a leave year; however, if they maintain a balance of [10] days of sick leave, they may take an additional 8 days of sick leave, or up to [13] days of sick leave in a leave year.

(b) Full-time employees charged leave on an hourly basis may take up to 40 hours of sick leave in a leave year; however, employees maintaining a balance of 80 hours of sick leave may take an additional 64 hours of sick leave, or up to 104 hours of sick leave in 1 leave year. Leave taken by employees on the Baylor Plan is to be multiplied by 1.667 when determining these limitations.

(c) Part-time employees may take up to 1 workweek of sick leave and if they maintain a balance of at least 2 workweeks of sick leave, they may take up to the amount of sick leave they would accrue in 1 leave year.

(4) [**Sick Leave to Care for a Family Member with a Serious Health Condition.** An employee may use up to a total of 12 administrative workweeks of sick leave each leave year to care for a family member with a serious health condition subject to the following limitations:

(a) Full-time employees charged leave on a daily basis may take up to a total of 12 administrative workweeks (60 days) of sick leave in a leave year to care for a family member with a serious health condition subject to the following limitations;

(1) If an employee previously has used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week (60 days) entitlement.

(2) If an employee has already used 12 weeks (60 days) of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general family care purposes.

(3) An employee is entitled to a total of 12 weeks (60 days) of sick leave each year for all family care purposes. In order to use the full 12 weeks of sick leave to care for a family member with a serious health condition, an employee must maintain a sick leave balance of 10 days.

(b) Full-time employees charged leave on an hourly basis may take up to a total of 12 administrative workweeks (480 hours) of sick leave in a leave year to care for a family member with a serious health condition subject to the following limitations;

(1) If an employee previously has used any portion of the 104 hours of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week (480 hours) entitlement.

(2) If an employee has already used 12 weeks (480 hours) of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 104 hours in the same leave year for general family care purposes.

(3) An employee is entitled to a total of 12 weeks (480 hours) of sick leave each year for all family care purposes. In order to use the full 12 weeks of sick leave to care for a family member with a serious health condition, an employee must maintain a sick leave balance of 80 hours.

(c) Part-time employees are also covered and may take an amount of sick leave equal to 12 times the average number of hours in his or her scheduled tour of duty each week during a leave year, subject to the following limitations.

(1) If an employee previously has used any portion of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the total number of available hours.

(2) If an employee has already used the maximum amount of sick leave permitted to care for a family member with a serious health condition, he or she cannot use additional hours in the same year for family care.

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(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.]

(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.**

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 or Part-Time Employees.

Annual and sick leave shall accrue to full-time nurses, nurse anesthetists, PAs, EFDAs, 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**

(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) **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**

(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 and EFDAs.** A full-time nurse, nurse anesthetist, PA or EFDA who is 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

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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.** 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, 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) **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 685 hours. For physicians, dentists, podiatrists, chiropractors, and optometrists, 7 calendar days of annual leave will equal 5 workdays of annual leave which will be converted to hours, in accordance with the conversion formula contained in VHA Supplement to MP-4, part II, paragraph ID.05.

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**

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. 7306, 7401(1) or 7405(a)(1)(A), except that such leave for temporary full-time employees appointed under authority of section 7405(a)(1)(A) 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. 7306, 7401(1) or 7405(a)(1)(A). 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, PAs, and EFDAs**

1. Annual leave, not to exceed 208 hours, may be advanced to a full-time nurse, nurse anesthetist, PA, or EFDA at any time.

2. Sick leave, not to exceed 360 [] hours, may be advanced to a full-time nurse, nurse anesthetist, PA, or EFDA 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 accrue during the remainder of the current appointment.]

(c) **Part-Time Physicians, Dentists, Podiatrists, Chiropractors, Optometrists, Nurses, Nurse Anesthetists, PAs and EFDAs.** Part-time physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, PAs and EFDAs 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

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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.*

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 time off

without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.

b. **State and Local Holidays.** If a facility is closed on a State or local holiday because it is determined that Federal work may not be properly performed as provided in paragraph 5d of chapter 2, this part, absence on such day is not chargeable to leave for an employee of the facility. Such approved time off is considered authorized absence without charge to leave.

9. AUTHORIZED ABSENCE. An authorized absence is an absence administratively approved, which does not result in a charge to leave of any kind, or in loss of basic salary. The following will be used as the *guide* in determining the types of absences from duty which may be authorized without charge to leave.

a. **Rest and Relaxation.** The Under Secretary for Health and facility directors or the professional person acting for them are authorized to approve absence for not to exceed 24 consecutive hours for rest and relaxation for full-time physicians, dentists, podiatrists, chiropractors, and optometrists who have been required to serve long hours in the care and treatment of patients.

b. **Tardiness or Absence for Part of a Day**

(1) A full-time physician, dentist, podiatrist, chiropractor, or optometrist will be charged a full day's leave for absence for a part of a day, unless the absence is excused by officials authorized to approve leave. This authority to approve absence for tardiness and absence for portions of a day will be exercised only when such absence from duty is of short duration and will not be interpreted to cover absences of a major portion of the day wherein annual or sick leave should be properly charged.

(2) It is incumbent upon supervisory officials to ensure that full-time nurses, nurse anesthetists, PAs, and EFDAs and part-time employees discharge their obligation to VA in terms of the number of hours for which payment is made and the number of hours actually worked in accordance with the pre-established tour of duty. An unavoidable or necessary absence from duty and tardiness of less than 1 hour may be excused. In other instances, absences or tardiness will be charged to annual leave or LWOP (with the employee's consent), or absence without leave, as appropriate. The charges to leave will come as a result of appropriate reporting in the ETA system.

(3) Repeated instances of tardiness or unexcused absences during scheduled working hours will be considered a disciplinary matter under the provisions of VA Handbook 5021 or as a matter for appropriate action with regard to probationary employees and temporary full- and part-time employees under the applicable provisions of VA Handbook 5021.

c. **Hearings Before Federal Boards, VA Boards and Committees.** Absence of employees required to appear before Federal boards, before VHA boards, or before other VA boards or committees as witnesses or as participants in the matter under consideration will be approved without charge against leave.

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d. **Injury in Line of Duty.** An employee who suffers a duty-connected injury or illness shall be excused without charge to leave for *initial* examination or outpatient treatment (including local travel time) by a United States medical officer or hospital, or any duly qualified physician or hospital of the employee's choice. Any absence from duty the first full workday (or shift) after the illness or injury, however, shall be charged to sick leave, LWOP or continuation of pay, as appropriate.

e. **Voluntary Participation in Civic Health Programs.** Absence of employees who participate in civic health programs such as mass chest X-rays and mass vaccinations or immunizations, uncompensated blood donor programs, etc., may be approved without charge to leave for this purpose. Participants in an uncompensated blood donor program may be excused without charge to leave for any portion of the day blood is donated which may be desirable for rest and recuperation.

f. **Administratively Required Vaccinations and Immunizations.** Time used for administratively required vaccinations or immunizations will not be charged against an employee's leave.

g. **Conventions, Conferences, and Professional and Scientific Meetings**

(1) Prior approval of the Secretary or Deputy Secretary, is required for attendance at national conventions of veterans' service organizations as a representative of VA. When approved, such absence will be without charge to leave.

(2) Facility directors, or their designees, are authorized to approve the absence of full- and part-time employees to attend international, national, sectional, State and local medical, dental, nursing, and scientific meetings and conferences held in the United States, U.S. Territories and Possessions, and Puerto Rico. The Under Secretary for Health, or a designee, may approve similar absences for VACO employees. Absences without charge to leave may be authorized for the necessary time to attend such meetings and conferences, including the allowed travel time not to exceed the time required for air travel. Approvals as specified in M-8, part IV, chapter 2 must be obtained before these absences are authorized. Requests involving authorized absence to attend activities outside the United States must be approved in accordance with M-8, part V, chapter 6. Intermittent employees will not be granted authorized absence under this policy.

h. **Education and Training.** Facility directors, or their designees, are authorized to approve without charge to leave the absence of full-time employees to attend education and training activities (lectures, seminars, courses of instruction, etc.) in accordance with the provisions of M-8, part IV, chapter 2. The Under Secretary for Health or chief consultants may authorize such absences for VACO employees.

NOTE: *Any approvals required by M-8, pt. IV, Ch. 2, will be secured before these absences can be authorized.* Part-time staff appointed under Section 7405(a)(1) (A) may be similarly granted authorized absence from scheduled duty for the purpose mentioned herein. Intermittent employees will not be granted authorized absence for this purpose.

i. **Teaching**

(1) Full-time employees may accept *teaching* responsibilities in private and public colleges and universities, provided the teaching obligations do not conflict with the performance of their duties in

VHA. Absences resulting from such teaching assignments if no remuneration is involved may be excused without charge leave.

(2) This policy permits part-time employees to fulfill teaching responsibilities in private and public colleges and universities when it serves the VA mission of veteran patient care or the education of VA employees. Absences resulting from such teaching assignments if no remuneration is involved may be excused without charge to leave. (This does not preclude the granting of annual leave or leave without pay where remuneration is involved.)

j. Medical Examinations

(1) No charge for absence will be made against the leave of an employee who is designated by proper VA authority to report to a VA Medical Center or other VA facility with medical facilities for medical examination or observation to determine fitness to remain on duty or for the purpose of recommending retirement from Federal employment.

(2) No charge will be made for necessary absences of an employee who is required to report for annual physical examinations, chest X-rays, or other types of medical examinations required in connection with VA employment.

(3) Employees ordered to undergo physical examinations to determine their fitness for extended active duty in the Armed Forces, and who do not receive military pay and allowances from the Armed Forces for this period, will be excused without charge to leave for a period not to exceed 1 workday. Absence in excess of 1 workday will be charged to annual leave, or LWOP, if annual leave is not available. Employees who receive military pay and allowances from the Armed Forces will be charged annual leave, or LWOP if annual leave is not available, for the entire period of absence for this purpose.

NOTE: *The discretion to excuse employees for medical examination or treatment, subparagraphs j and k, is limited to brief periods, usually 1 day or less. When an initial examination is not completed in 1 day, whether the employee is in or out of the hospital, the employee may be excused without charge to leave for a somewhat longer period than 1 day; however, the additional time to hospitalize an employee after an initial examination or to require additional and more extensive tests and examinations may not be regarded as excused absence without charge to leave or loss of pay, even though periods of duty may intervene between the initial examination of an employee and the additional test, examinations or hospitalization that may be necessary as a result of the initial examinations.*

k. Medical Treatment. Employees may be excused for visits to the Employee Health Unit or other emergency facility for treatment of a minor illness.

1. Examinations. Absences of physicians, dentists and residents to undergo an American Specialty Board examination, podiatrists, chiropractors, and optometrists to undergo examination by an approved specialty board, nurses to undergo examination for certification by an appropriate national certifying body, and physician assistants to undergo the official Physician Assistant Certification Examination prepared by the National Board of Medical Examiners and graduate nurse technicians for registration, will be authorized. The amount of absence authorized will not exceed the time actually required for

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taking the examination and for travel to and from the place of examination. Any additional absence will be charged to annual leave, or LWOP if annual leave is not available.

m. **Pending Emergency Suspension.** Ordinarily, employees will be retained in a pay and active duty status during an inquiry or investigation into an incident of misconduct or pending a decision on a proposed discharge. In instances where it is determined that an employee's continued presence at work might reasonably pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the employee may be placed in a paid non-duty status (i.e., authorized absence for timekeeping purposes) for a brief but reasonable period of time. The facility Director may approve such authorized absence in order to conduct an investigation into the situation and/or to obtain the Under Secretary for Health's decision on a request to effect a suspension (see VA Handbook 5021).

n. **Bone-Marrow and Organ Donor Leave.** An employee is entitled to 7 days of paid time off in a leave year to serve as a bone-marrow donor, and 30 days of paid time off in a leave year to serve as an organ donor. Employees may take this leave without charge to other types of leave or reduction in pay. This leave is in addition to other types of leave and is creditable as regular duty for all purposes, such as leave accrual, retirement, and proficiency rating.

o. **VA Policy.** The authorized absence policy, contained in chapter 2 of this part, for title 5 employees is also applicable to employees under this chapter for the following types of absences:

- (1) Absence for Congressional Medal of Honor holders.
- (2) Duty connected injury or illness.
- (3) Change in facility.
- (4) Civil Defense and disaster activities.
- (5) Funerals.
- (6) Meetings with labor organizations and other groups.
- (7) Parades, ceremonies, and civic activities.
- (8) Participation in civic organizations.
- (9) Participation in military funerals.
- (10) Representing labor organizations.
- (11) Voting and registration.
- (12) Weather and emergency situations.

(13) VA placement matters

10. LEAVE WITHOUT PAY (LWOP)

a. General

(1) Leave without pay is a temporary nonpay status and absence from duty to be granted only on the employee's request. The authorization of LWOP is a matter of administrative discretion.

(2) An employee cannot demand that LWOP be granted as a matter of right except in the case of [FMLA leave and] disabled veterans who are entitled to LWOP if necessary for medical treatment under Executive Order 5396; and reservists and members of the National Guard who are entitled to LWOP if necessary to perform military training duties

(3) Employees who are disabled on the job and file claims with the OWCP may be granted LWOP for the entire period of absence from duty. LWOP may also be granted in cases of employees who have made application for disability retirement. LWOP in these circumstances may be granted until it is judged that the employee will not be able to return to duty and may be granted regardless of whether or not the employee has annual leave.

(a) **Substitution of Annual or Sick Leave for LWOP.** An employee who is on LWOP pending adjudication of a claim with OWCP may, if the claim is disallowed while still employed, be retroactively granted sick and annual leave.

(b) **Substitution of LWOP for Annual or Sick Leave.** An employee who has used sick leave or annual leave pending adjudication of an OWCP claim, which is later approved, should be informed by the human resources office about procedures for "buying back" the leave. This can be accomplished by the employee's election to be placed in a nonpay status for the period and by the employee's authorization for the OWCP to reimburse the agency for leave used based on compensation entitlement (with the employee receiving or paying the difference). The substitution should be made promptly and the OWCP will be notified of proposed change in the employee's last day in pay status. For leave record purposes, the request for substitution must be made within 1 year of approval of the OWCP claim, unless it is administratively determined that the employee was prevented from exercising this option because of the disability which gave rise to the claim. In such case, the employee may exercise the option within 1 year of the time it is determined that the employee has sufficiently recovered from the disability to enable the employee to make a reasoned decision. The employee's election should be in writing and is not subject to revocation.

(c) **LWOP in Cases of Extended Absence.** In a case where an employee's condition requires extended absence because of duty-connected illness or injury, the length of LWOP granted will be determined on the basis of the nature of the disability and the LWOP criteria contained in this paragraph. If OWCP accepts an employee's claim, but does not determine that the employee is permanently and totally disabled, LWOP should be granted during this period, except in case of an overriding requirement for separation, such as staff adjustments or removal for cause. LWOP in yearly increments will be granted until it is judged that the employee will not be able to return to duty.

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(4) Employees may be granted LWOP for pregnancy and confinement as provided in paragraph 7d.

(5) The minimum charge for LWOP for full-time physicians, dentists, podiatrists, chiropractors, and optometrists will be 1 [] day and will be charged in the same manner as annual leave. The minimum charge for full-time nurses, nurse anesthetists, PAs, EFDAs and part-time employees will be one quarter hour (15 minutes).

b. Conditions Which Will Be Met for Approval of Leave Without Pay. Except for the employees indicated in subparagraph a (2), (3) and (4), LWOP will not be approved unless the following conditions are met.

(1) There is expectation that the employee will return to duty in VA at the expiration of the LWOP period. At the discretion of the facility Director the employee may be required to signify such intentions by submitting a signed statement to that effect to be made a matter of record.

(2) The needs of the service with respect to patient care will not be unduly hampered by the employee's absence.

(3) The contribution or service of the employee is such to merit granting LWOP, as evidenced by supervisory evaluation.

(4) It is clearly indicated that one or more of the following advantages will accrue to the service.

(a) The value of the employee will be increased.

(b) Training of the employee in a specialty needed by VA.

(c) Retention of a capable employee in an area where recruitment of qualified personnel is difficult.

(d) Protection or improvement of employee's health.

c. Notice to Employee. Employees granted LWOP for more than 30 days will be notified in writing by the Chief of Service that:

(1) There is no assurance of their assignment to their former position or facility on the expiration of the approved period of LWOP, although it will be the policy to make every effort to return them to the facility which granted the LWOP, except under the circumstances enumerated below:

(a) When the employee requests reassignment to another facility and there is a suitable vacancy there and both facilities concur in the transfer. Such transfers will be handled by the facilities concerned, if the action normally does not require prior approval of VACO.

(b) When VACO may wish to offer the employee assignment elsewhere in the interests of the service. For example, the services of a nurse returning from educational LWOP might be required at another facility as an associate chief, nursing service for education.

(c) In the event a staff adjustment is necessary while an employee is on LWOP, the employee is subject to being declared surplus on the same basis as other on-duty employees.

(2) They should communicate with their supervisor at least 2 weeks before the expiration of their LWOP to arrange for their return to duty.

d. **Action by the Human Resources Office.** The Human Resources Management Office of the facility which granted the LWOP will maintain necessary controls to insure that a vacancy is available for the return of the employee to duty. In unusual circumstances where it is not possible to return the employee to the facility the employee left, VACO assistance in placing the employee may be requested.

e. **Human Resources Office Records.** LWOP for more than 30 calendar days will be documented on Standard Form 52, Request for Personnel Action, forwarded to the Human Resources Management Office for appropriate action and filed in the employee's personnel folder.