

STAFFING

- 1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) policy regarding employment of individuals under the authority of 38 U.S.C. 7306.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory procedures on staffing. The pages in this handbook replace the corresponding page numbers in VA Handbook 5005. These changes will be incorporated into the electronic version of VA Handbook 5005 that is maintained on the [Office of Human Resources Management](#) Web site. Significant changes include:
 - a. Clarifies the reemployment entitlements for employees who relinquished either a competitive or excepted service title 5 appointment, or a permanent appointment under the authority of 38 U.S.C. 7401(3), to accept a position under the authority of 38 U.S.C. 7306.
 - b. Eliminates the requirement for pre-placement physical examinations for appointees under the authority of 38 U.S.C. 7306.
 - c. Makes employees appointed under the authority of 38 U.S.C. 7306 subject to the same adverse action procedures as Senior Executive Service employees as stated in VA Handbook 5021, part I, chapter 3, paragraph 15. Revisions will be made to VA Handbook 5021 to include these changes.
- 3. RESPONSIBLE OFFICE:** The Recruitment and Placement Policy Service (059), Office of the Deputy Assistant Secretary for Human Resources Management.
- 4. RELATED DIRECTIVES:** Accompanying this change is a change to VA Handbook 5019, "Occupational Health Services."
- 5. RESCISSIONS:** None.

CERTIFIED BY:

/s/
Stephen W. Warren
Acting Assistant Secretary for
Information and Technology

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

/s/
Willie L. Hensley
Acting Assistant Secretary for
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**SECTION D. CENTRAL OFFICE AND OTHER APPOINTMENTS
AND DESIGNATIONS UNDER 38 U.S.C. 7306**

1. STATUTORY DESIGNATIONS. 38 U.S.C. 7306 provides for the appointment by the Secretary of a limited number of employees to fill specifically designated positions in VHA. These positions include:

a. Deputy Under Secretary for Health

b. Associate Deputy Under Secretary for Health

c. Eight Assistant Under Secretaries for Health (AUSH), including one dentist responsible for the operations of Dental Service. Not more than two AUSHs may be individuals qualified in administering health services who are not physicians or dentists. One AUSH must be a physician trained in or with extensive experience in geriatrics responsible to the Under Secretary for Health for evaluating all research, educational and clinical health care programs in VHA in geriatrics and who serves as the principal advisor to the Under Secretary for Health in this area.

d. Medical Directors

e. Chief [Officers] for the [Office of] Nursing [Services] and the Pharmacy Benefits Management Strategic Health Group.

f. Directors of Chaplain Service, Nutrition and Food Service, Podiatry Service, and Optometry Service.

g. Directors of professional or auxiliary services.

2. GENERAL APPOINTMENT REQUIREMENTS. Persons appointed under authority of 38 U.S.C. 7306 will be required to meet the basic qualifications set forth in 38 U.S.C., chapter 73 or 74 and VA qualifications standards. Recommendations for appointment will be made by the Under Secretary for Health and forwarded with appropriate documentation through the Assistant Secretary for Human Resources and Administration to the Secretary for approval. An application form [] is required for candidates who are not VA employees.

3. TERMS OF APPOINTMENT

a. **Length of Appointments and Reappointments.** Except for the Director, Chaplain Service, appointments made by the Secretary under authority of 38 U.S.C. 7306 will be for a period of 4 years.

(1) Individuals may be reappointed for successive 4-year periods.

(2) Upon expiration, initial appointments or reappointments may be *extended* by the Secretary for any period not to exceed 3 years. Appointments may be extended any number of times, but the combined period of continuous service on such extensions may not exceed 3 years.

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(3) Individuals serving on 38 U.S.C. 7306 appointments may be reassigned at the same grade level during a period of initial appointment, reappointment, or extension of the appointment. However, if a reassignment involves a change in grade, the employee must be given a new 4-year appointment.

(4) Individuals serving on initial 38 U.S.C. 7306 appointments, reappointments, or extensions are subject to [termination or suspension actions for cause] by the Secretary [per the provisions of VA Handbook 5021, Employee/Management Relations].

b. **Senior Medical Investigators.** See M-3.

c. **Director, Chaplain Service.** Under the provisions of 38 U.S.C. 7306(e)(1), the Secretary may designate a member of the Chaplain Service of VA as Director, Chaplain Service, for a period of 2 years. Redesignation may be made for any period not exceeding 2 years.

d. **Reemployment After Appointment Under 38 U.S.C. 7306**

(1) The Under Secretary for Health may recommend to the Secretary reappointment of individuals appointed under 38 U.S.C. 7306.

(2) An employee initially appointed under authority of 38 U.S.C. 7306 may be reemployed under authority of 38 U.S.C. 7401(1), except for individuals ineligible for such an appointment.

(3) An employee who relinquished an appointment under 38 U.S.C. 7401(1) in order to accept an appointment under 38 U.S.C. 7306 shall be entitled to reemployment under authority of 38 U.S.C. 7401(1) upon termination of the appointment under 38 U.S.C. 7306 for any reason other than cause.

[(4) An employee who relinquished a permanent appointment under 38 U.S.C. 7401(3) in order to accept an appointment under 38 U.S.C. 7306 shall be entitled to reemployment under authority of 38 U.S.C. 7401(3) upon termination of the appointment under 38 U.S.C. 7306 for any other reason than cause.]

[(5)] An employee who relinquished a permanent title 5 appointment [in the competitive service] in order to accept an appointment under 38 U.S.C. 7306 shall be entitled to reemployment [in the competitive service] under authority of title 5 upon termination of the appointment under 38 U.S.C. 7306 for any reason other than cause.

[(6) An employee who relinquished a permanent title 5 appointment in the excepted service in order to accept an appointment under 38 U.S.C. 7306 shall be ineligible for noncompetitive reemployment in the competitive service under the authority of title 5 upon termination of the appointment under 38 U.S.C. 7306, unless the employee had otherwise previously gained eligibility for reemployment in the competitive service under the authority of title 5.]

e. **After Designation as Director, Chaplain Service Under 38 U.S.C. 7306(e)(1).** An employee designated as Director, Chaplain Service, shall be entitled to return to the position, grade, and status held immediately prior to this designation upon completion of the period of service. All service as Director, Chaplain Service, shall be creditable as service in the position held prior to the designation.