STAFFING

- **1. REASON FOR ISSUE:** To implement provisions of the "Caregivers and Veterans Omnibus Health Services Act of 2010" (Public Law 111-163, dated May 5, 2010) as it relates to probationary periods for part time or intermittent registered nurse (RN) appointments under 38 U.S.C. 7405.
- **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. 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 Human Resources Management Website. Significant changes include:
- a. Requires that employment of all part time RNs under the authority of 38 U.S.C. 7405(a)(1)(A), with or without time limitation, are subject to completion of a probationary period of two years. Upon completion of the probationary period, the appointment is no longer considered to be temporary, and the RN is considered to have served the probationary period required by section 7403(b).
- b. Adds guidance concerning creditable service towards the completion of the probationary period for part time or intermittent RNs appointed under 38 USC 7405(a)(1)(A).
- c. Consolidates the probationary period requirements for full title 38, hybrid title 38, and part time or intermittent RNs into a single reference.
- **3. RESPONSIBLE OFFICE:** The Recruitment and Placement Policy Service (059), Office of the Deputy Assistant Secretary for Human Resources Management.
- **4. RELATED DIRECTIVES:** VA Directive 5005, Staffing.

5. RESCISSIONS: None.

CERTIFIED BY:

BY DIRECTION OF THE SECRETARY OF VETERANS AFFAIRS:

/s/ Stephen W. Warren Executive in Charge and Chief Information Officer Office of Information and Technology

/s/
Gina S. Farrisee
Assistant Secretary for
Human Resources and Administration

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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.

b. 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, in spite of 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.

c. 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 on the basis of calendar time, in the same manner as for full time employees.
- (2) The probationary period for intermittent RNs is computed on the basis of 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 <u>last calendar day</u> 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 <u>last scheduled tour of duty</u> 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 4:30 p.m. on October 29, 2013, the probationary period is completed at 4:30 p.m. on October 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.
- d. **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 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 <u>not</u> 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 give consideration to 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. 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).
- (1) The Human Resources Management Office will establish monitors to ensure completion of mid probationary periodic reviews.
- (2) 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.
- (3) 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.

- (4) 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.
- (b) **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), 7401(3) [and part time or intermittent registered nurses (RNs)] in the following matters.
- (1) **Podiatrists, Optometrists, Chiropractors, [RN]s, 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. Professional Standards Boards for occupations listed in 38 U.S.C. 7401(3) act for, are responsible to, and are [agents] of the Under Secretary for Health in matters concerning appointments and advancements of individuals in all hybrid occupations. Boards will determine eligibility and recommend the appropriate grade and step for appointment at all grade levels under authority of 38 U.S.C. 7401(3) and 7405(a)(1)(B), and will recommend candidates for special advancements for achievement and promotions to grades above the full performance level. (See VA Handbook 5005, Part III, Appendix O, Full Performance Levels for Hybrid Title 38 Positions.)
- c. 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.
- d. VHA management officials are responsible for ensuring the effective functioning of boards under their jurisdiction.
- e. See Appendix III-P, part III, this handbook, Procedures for Reporting Questionable Behavior and Judgment Exhibited by Hybrid Title 38 Professional Standards Boards Members.
- f. The Organizational Structure of Hybrid Title 38 Professional Standards Boards is located in Appendix O, this part.
- **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** (See Appendix P, this part, Procedures for Selecting Title 38 Hybrid Professional Standards Boards Members.)
- 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 recommended but not 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.

NOTE: For example, a 3-member RRT standards board could be comprised of 2 RRTs and a health care professional from that specialty area, e.g., a pulmonologist, registered nurse, physician assistant, etc. Board members must still be at a grade and level that is equal to or higher than that of the candidate being considered and may not be a recommending official.

- **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) or 7401(3).

- [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) or 7401(3) 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.
- [e.] Conversion of an employee from an appointment under [7306 or] 38 USC 7405 (a)(1)(B) without time limitation to an appointment under 38 USC 7401(3) in the same occupation.
- [f.] Appointment of graduate technicians pending licensure, certification, or registration, student technicians pending graduation, and other individuals appointed under 38 U.S.C. 7405(a)(1) pending completion of requirements for appointment.
- **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.** See Appendix II-O, this part, Organizational Structure of Hybrid Title 38 Professional Standards 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.
- (2) **Hybrids.** A VISN PSB shall consider advancements of facility PSB members and requests for reconsideration of promotions initially considered by a facility PSB. The VISN Board will act on appointments and advancements when a facility board cannot be properly constituted and as delineated in Appendix II- O, this part.
- 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].

(4) **Other Occupations.** For all other employees, approval of the facility Director on recommendation of the appropriate PSB, is required.

NOTE: Action by a Professional Standards Board is not required for the temporary appointment of [a full time RN,] a nurse anesthetist, PA or EFDA above the minimum step of the grade under authority of 38 U.S.C. 7405(a)(1) pending processing for a probationary appointment as provided in section G, paragraph 1a(2) of this chapter. [However, as of May 5, 2010, the part time or intermittent appointment of a registered nurse under 38 U.S.C 7405(a)(1) does require a Professional Standards Board review prior to any appointment. A temporary part time or intermittent appointment for a registered nurse under 38 U.S.C 7405(a)(1) may be approved, pending a Professional Standards Board review, however, the time served as a temporary appointment is creditable towards the required probationary period upon conversion to a permanent part time or intermittent appointment for the registered nurse.]

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 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).

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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SECTION G. APPOINTMENTS UNDER 38 U.S.C. 7405

1. TEMPORARY FULL TIME APPOINTMENTS UNDER 38 U.S.C. 7405(a)(1)

- a. **General.** Temporary full time appointments are made under authority of section 7405(a)(1). These appointments may be made when they are in the best interest of the service, such as under the following circumstances:
- (1) To employ individuals in occupations identified in sections 7401(1) and 7401(3) when the work to be performed by the employee is of a temporary nature and can be completed within a 3-year or shorter period.
- (2) To employ [temporary full time registered nurses], nurse anesthetists, PAs, EFDAs, or hybrid title 38 employees pending processing of probationary appointments when the applicants meet the basic requirements for appointment. Such appointments may be effected without board action. This includes appointments above the minimum step of the grade for [temporary full time] registered nurses, nurse anesthetists, PAs and EFDAs provided the application and related documentation show evidence of superior qualifications as described in section E, paragraph 2 of this chapter.
- (3) To employ physicians pending processing of probationary appointments when probationary appointments require the approval of the Under Secretary for Health or designee.
- (4) To employ residents who have just completed their formal VA residency training and are awaiting probationary appointment.
 - (5) To reemploy annuitants.
 - (6) To employ noncitizens when it is not possible to recruit qualified citizens for necessary services.
- (7) To employ nonlicensed physicians, dentists, podiatrists, optometrists, and chiropractors for utilization in research or academic positions or in positions where there is no direct responsibility for the care of patients. (See section B, paragraph 14.)
- (8) To employ nonlicensed physicians, dentists, podiatrists, optometrists, chiropractors, or unregistered nurses and nurse anesthetists when the individual is to serve in a country other than the United States and the individual is licensed or registered in the country in which the individual is to serve. (See section B, paragraphs 14 & 15.)
- (9) To employ physicians in the Research and Development Program as research associates who have been selected in accordance with procedures in M-3.
- (10) To employ physicians in the Distinguished Physician Program who have been selected in accordance with procedures in M-2, part I.

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 feebasis appointments under authority of 38 U.S.C. 7405(a)(2) and lump-sum fee-basis appointments of consultants and attendings 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 attendings 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 7401(3), [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 assignment. On approval of the Board's or panel's recommendation by the Under Secretary for Health, personnel action will be taken to effect 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.