

November 16, 2000

## HEALTH CARE PRACTITIONERS ASSIGNED TO NON-PATIENT CARE AREAS OR OUTSIDE OF CLINICAL SERVICES

**1. PURPOSE:** This Veterans Health Administration (VHA) Directive issues general guidance regarding the placement of Title 38 employees in non-patient care assignments or outside of clinical services.

**2. BACKGROUND:** The Office of Inspector General (OIG), in an audit report, identified a number of Title 38 health care practitioners in field facilities who have been assigned outside of patient care or clinical services. To ensure that Title 38 employees are being appropriately utilized, VHA agreed to issue policy guidance to emphasize the importance of assigning health care professionals to positions that require clinical skills.

**3. POLICY:** It is the policy of VHA that positions which do not require the knowledge, skills and abilities of a health care professional may not be removed from the competitive civil service by placing a Title 38 employee in the position. *NOTE: Such action is contrary to Title 5 United States Code (U.S.C.) 3302 and Title 5 Code of Federal Regulations (CFR), Part 1 (Civil Service Rule 1), and in certain instances is considered a prohibited personnel practice as defined by Title 5 U.S.C. 2302(b)(6).*

### 4. ACTION

a. Network, facility Directors, and comparable officials in the Department of Veterans Affairs (VA) Central Office are required to adhere to the guidelines outlined in this Directive in utilizing Title 38 personnel.

b. To ensure maximum use of scarce health care and human resources, Title 38 health care practitioners should only be placed in non-patient care assignments or outside clinical services if the Network Director, facility Director, or comparable official in VHA Headquarters determines that the following three conditions are met:

(1) The position requires the knowledge, skills, and abilities of a health care professional (i.e., at least 50 percent of the practitioner's time must be spent performing duties which clearly require the application of clinical knowledge, skills, and abilities);

(2) Staffing at the facility is within acceptable parameters for the patient care or clinical setting. For example, staffing is sufficient to provide patient care, continuous quality improvement, education, research, etc. *NOTE: Where the conditions in subparagraph 4b(1) are not met, management should make every effort to redesign the assignment, so that it can be accomplished by an employee in the competitive civil service; and*

### THIS VHA DIRECTIVE EXPIRES NOVEMBER 16, 2005

(3) The placement of a Title 38 employee is consistent with acceptable position management practices. For example:

**VHA DIRECTIVE 2000-045**  
**November 16, 2000**

(a) Where appropriate, assigning Title 38 employees to positions requiring clinical knowledge, skills, and abilities on a part-time, consultative, or collateral basis; and

(b) Consolidating positions requiring clinical knowledge, skills, and abilities into the minimum number of positions necessary to perform the required duties.

**5. REFERENCES**

- a. Title 38 U.S.C. 7304.
- b. Title 5 U.S.C. [2302 (b)(6) and] 3302.
- c. Title 5 CFR, Part 1 (CS Rule 1).
- d. Title 5 CFR 315.701.
- e. Title 5 CFR 316.702.
- f. VA Directive and Handbook 5001.

**6. FOLLOW-UP RESPONSIBILITY:** The Director, Management Support Office (10A2), is responsible for the contents of this Directive.

**7. RESCISSIONS:** This VHA Directive will expire November 16, 2005.

Thomas L. Garthwaite, M.D.  
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