

**EMPLOYEE OCCUPATIONAL HEALTH SERVICE**

- 1. REASON FOR ISSUE:** To reissue Department of Veterans Affairs (VA) policy regarding the Employee Occupational Health Service.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive sets forth human resources policies regarding the Employee Occupational Health Service. No substantive changes have been made to the previous directive.
- 3. RESPONSIBLE OFFICE:** The Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources Management.
- 4. RELATED HANDBOOK:** VA Handbook 5019, Employee Occupational Health Service.
- 5. RESCISSIONS:** VA Directive 5019, Occupational Health Services, dated April 15, 2002.

**CERTIFIED BY:**

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

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Executive in Charge and Chief Information Officer  
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## EMPLOYEE OCCUPATIONAL HEALTH SERVICE

- 1. PURPOSE.** This directive contains policy on the Employee Occupational Health Service of the Department of Veterans Affairs (VA), the use of physical standards boards for Title 38 and hybrid employees and the availability of the Employee Assistance Program (EAP) for all employees.
- 2. POLICY.** It is VA policy to ensure that all selected applicants and employed personnel are physically, cognitively and emotionally fit to perform the duties of the position to which assigned. It is also the policy of VA to assist employees through the EAP for biopsychosocial issues which affect employee performance and/or conduct as well as problems related to alcohol or drug abuse.
- 3. RESPONSIBILITIES.** Statements of responsibility for the various programs contained within this directive may be found in each of the separate parts of VA Handbook 5019.
- 4. REFERENCES**
  - a. OPM Employee Health Services Handbook;
  - b. OPM Operating Manual 339-31, Reviewing and Acting on Medical Information;
  - c. OPM Operating Manual on Qualification Standards for General Schedule Positions;
  - d. Privacy Act, 5 U.S.C. 552a;
  - e. VA Directive 5810, Managing Workers Compensation Cases;
  - f. X-118 C – OPM Job Qualifications System for Trades and Labor Occupations;
  - g. 5 CFR, parts 300, 307, 332, 333, 335, 337, 338, 339, 353 and 930;
  - h. 5 U.S.C. 7901;
  - i. 5 U.S.C., chapters 11, 21, 23, 31, 33, 35 and 51;
  - j. 29 CFR 1613.704;
  - k. 38 U.S.C., chapters 73 and 74;
  - l. 38 U.S.C. 611(b);
  - m. 45 CFR, parts 160 and 164.



## EMPLOYEE OCCUPATIONAL HEALTH SERVICE

- 1. REASON FOR ISSUE:** To reissue Department of Veterans Affairs (VA) procedures regarding the Employee Occupational Health Service.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive sets forth human resources policies regarding the Employee Occupational Health Service. The pages in this handbook replace the corresponding page numbers in VA Handbook 5019, dated March 27, 2015. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Handbook 5019 that is maintained on the Office of Human Resources Management website. Significant changes include:
  - a. Clarifies that hybrid title 38 positions that do not have medical standards for the occupation or physical standards for the individual position do not require a pre-placement physical exam and are not subject to the physical standards board process.
  - b. Specifies that, under rare circumstances, facilities may arrange to have applicants who live outside of a normal commuting area of a VA or other Federal facility, undergo a pre-placement physical exam or medical evaluation using a private practitioner.
  - c. Clarifies use of personal health information for directed or special physical examinations and the authorization to release medical information.
  - d. Revises Motor Vehicle Operator criteria, to remove medical condition chart for volunteer drivers, drivers with and without CDL requirements and the Basic Life Support requirement for volunteer drivers.
  - e. Removes the physical fitness standards and testing requirements for Police Officers criteria; clarifies annual examination requirements will include an annual psychological evaluation.
  - f. Removes criteria for positions in Part II, Appendix A, and removes Appendix B Comparison of OPM vs. NFPA Medical Requirements for Firefighters.
  - g. Adds the confidentiality protections for occupational health records and forms and clarifies disposition of the employee medical folder (EMF).
- 3. RESPONSIBLE OFFICE:** The Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources Management.

**4. RELATED DIRECTIVE:** VA Directive 5019, Employee Occupational Health Service.

**5. RESCISSIONS:** None.

**CERTIFIED BY:**

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

/s/

Dat P. Tran  
Acting Assistant Secretary for the  
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/s/

Peter J. Shelby  
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EMPLOYEE OCCUPATIONAL HEALTH SERVICE

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EMPLOYEE OCCUPATIONAL HEALTH SERVICE

PART I. GENERAL

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**EMPLOYEE OCCUPATIONAL HEALTH SERVICE**

**PART I. GENERAL**

**1. PURPOSE**

a. This handbook contains a statement of program objectives and scope, provisions for pre-placement and periodic physical examinations, emergency outpatient and hospital treatment, evaluation and or treatment of injuries and illnesses, and protection from communicable disease, maintenance of healthful working environment, preventive health measures and employee assistance programs. The provisions of this handbook apply to all VA employees.

b. The objectives of the Employee Occupational Health Service are to:

(1) Ensure workers are placed in positions where they can perform the essential functions of their job considering their physical, mental and emotional capacities, without endangering their health or the health of their co-workers.

(2) Protect employees against health and safety hazards in the work environment.

(3) Assist employees in attaining personal health maintenance goals.

(4) Reduce work-related injuries and illnesses.

(5) Provide medical and rehabilitative services to the occupationally injured and ill.

(6) Return the occupationally injured and ill to duty.

(7) Ensure compliance with Federal, state, local and professional standards and guidelines.

c. The scope of Employee Occupational Health Service includes:

(1) Initial treatment and/or referral for the medical problems of employees who become ill while at work. The intent of this service is not to provide definitive care, which is the responsibility of the employee's health care provider. Rather, the purpose is to provide an initial assessment of risk to the employee, co-workers, and patients where applicable, and to provide either initial treatment and/or referral for further care. The goal is to support the employee remaining at work.

(2) Diagnosis and first aid treatment of an injury or illness that becomes necessary during working hours and that are within the competency of the professional staff and facilities of Employee Occupational Health, whether or not such illness was caused by employment. Such services may be considered humanitarian, and employees may be billed for the services provided. In cases where emergency treatment is required employees will report to the facility emergency department, and where such services are not available the facility will arrange for conveyance to an appropriate health care facility.

(3) Pre-placement evaluations and examinations of persons selected for appointment where required by VA the Center[s] for Disease Control [and Prevention] [(CDC)] or the Office of Personnel Management (OPM).

(4) Work place evaluation, in collaboration with other health and safety professionals, to appraise and report environmental health hazards to management as an aid to preventing and controlling health risks.

(5) Administration, at the discretion of the responsible employee occupational health provider, of treatments and medications:

(a) Furnished by the employee and prescribed in writing by a personal physician as reasonably necessary to maintain the employee at work, or

(b) Prescribed by a physician providing medical care under Chapter 81 of title 5 U.S.C. as long as appropriate emergency medical equipment is available.

(6) Preventive services providing health education to encourage employees to maintain a healthy lifestyle, understand their risks for disease and become aware of appropriate preventive practice; providing health intervention programs to promote and maintain physical and mental fitness and to help prevent illness and disease; and provide specific disease screening examinations and immunizations, as authorized herein.

(7) Post-exposure examinations as mandated by applicable regulatory agencies and current evidence-based medical practice.

(8) Medical surveillance for employees who have a potential for occupational exposure to hazardous materials and communicable diseases.

(9) Cooperation with local public health agencies, physicians, and programs in providing measures that protect against diseases of public health significance.

d. VA will:

(1) Provide employee occupational health services, on a reimbursement basis (developed on the basis of exam complexity), to other Federal agencies and departments.

(2) Ensure that when VA contracts with other Federal agencies to provide employee occupational health services to their employees, that the contractor is provided with the current specific medical and job hazard information of the position and any other pertinent factors necessary to assess an employee's ability to perform the job.

(3) Ensure that arrangements are made for examinations [,] using VA medical facilities to the extent possible. [Other Federal facilities, fee basis or contract providers may be used] if a facility cannot provide mandated services for eligible VA employees. The scope of any such examinations [conducted by non-VA entities] will be conducted consistent with VA criteria.

## 2. POLICY

a. It is the policy of VA to provide employee occupational health services for all VA employees consistent with the purpose and scope provided in paragraph 1.

b. VA facilities with 300 or more VA employees working in one location, where there is no existing employee occupational health service, will establish an Employee Occupational Health program unless satisfactory employee occupational health services can be furnished by participation in a nearby employee occupational health service which is serving other Federal employees.

c. Where it is determined that employee occupational health services are needed due to working conditions involving health risks for fewer than 300 VA employees in the same location, such occupational services shall be provided by establishment of an Employee Occupational Health program or by contract with private or public sources. VA will cooperate with other Federal agencies by providing or participating in employee occupational health services on a reimbursement basis for employees of more than one agency in a location.

d. Services provided to VA employees through contracting for employee occupational health services or through private providers shall meet VA standards. VA facilities shall ensure that evaluation criteria are established by contract for those employee occupational health services.

e. The confidential nature of personal health information shall be recognized and respected in accordance with the Privacy Act, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, Occupational Safety and Health Act (OSHA) standards regarding medical surveillance, and any other applicable laws and regulations.

f. VA employee medical files shall be separately and distinctly secured from all other medical records.

g. VA shall ensure that each facility Employee Occupational Health program has [adequate resources (space, equipment, supplies and employee occupational health staff)] and a designated Employee Occupational Health (EOH) Physician [to serve as the Agency Medical Officer (AMO) for the facility. The AMO is responsible for administering the Employee Occupational Health program.]

h. Only those persons who demonstrate that they are physically, cognitively and emotionally capable of performing the essential functions of their position [without risk to self or others] are to be employed and retained in VA. [ ] The procedures published in this handbook and the guidelines for determining physical fitness are designed to meet this policy objective. In all instances, VA must be in compliance with current American Disabilities Act (ADA) regulations regarding reasonable accommodation, including the ADA as amended.

i. A Physical Standards Board deliberation is required when there is a question of [ ] title 38 [and certain title 38 hybrid] employee[s'] ability to meet the essential functions of his/her position unless he/she is being evaluated for medical disability retirement.

j. Any disqualification, non-selection or pass over for a title 5 position of a preference eligible Veteran for medical reasons must be adjudicated by OPM before the position is filled. Employee Occupational Health will provide supporting medical information signed by a licensed physician or state licensed and certified practitioner to OPM as required.

k. Determinations of physical, mental and emotional fitness will be made without discrimination based on ethnicity, race, color, sex, religion, national origin, lawful political affiliation, membership or non-membership in a labor organization, marital status, non-qualifying disability, age or other irrelevant factors.

### 3. RESPONSIBILITIES

a. [The head of the facility will arrange for the implementation of the Employee Occupational Health program for each facility. This responsibility is divided into two segments – clinical and administrative. The dual nature of the program requires a coordinated effort between the designated Human Resources Management personnel and VA employee occupational health staff or any other health care personnel that may provide employee occupational health care services for VA employees. Employee occupational health services will be provided under the direction of a licensed physician with knowledge of occupational medicine practice.] [ ]

b. The [VHA Employee Occupational Health Services] is responsible for the clinical content of this handbook. The [VHA Employee Occupational Health Services]:

(1) Provides programmatic advice and guidance to OHRM on clinical matters;

(2) Provides programmatic advice and guidance for all Veterans Health Administration (VHA) Employee Occupational Health staff.

(3) Is responsible for clinical program development and quality improvement, physical control of the employee medical file, and resolving conflicts on privacy related questions between Office of the General Counsel, Office of Information & Technology (Privacy Service) and VHA facility Human Resources.

(4) Is responsible for development of performance metrics and monitors, alignment with operations, and an annual occupational health report. [ ]

[c.] The head of the station will arrange for facilities, equipment, supplies and personnel necessary for the implementation of the Employee Occupational Health Service as follows:

(1) **Stations Having a Medical Facility.** Assign a physician with knowledge in the practice of occupational health to act as the [AMO.] [I]t is preferable that the [AMO] be board certified or board eligible in Occupational Medicine. The [AMO] will be in charge of the Employee Occupational Health Service and responsible for providing employee occupational health services authorized by this handbook with administrative advice and assistance from the Human Resources Management Officer.

(2) **Stations Where a Medical Facility is Not Available.** Arrange for employee occupational health services through a nearby VA medical facility, in another Federal medical facility, or by [fee basis or] contract with an outside medical facility or physician. All contracts for employee occupational health services [are] subject to such administrative control as the facility head deems necessary. At these stations, the Human Resources Management Officer will be responsible to management for [working with contracting personnel to obtain contractual employee occupational health services.] Oversight of Employee Occupational Health Services within VHA is maintained by the [VHA Employee Occupational Health Services].

(3) **Stations Where an EOH Nurse is on Duty.** Facilities must develop written protocols and standing orders. The EOH nurse may render first aid for minor illnesses and injuries and give appropriate assistance in serious illnesses and injury within their scope of practice, written protocols and standing orders until a health care provider arrives.

(4) **All Facilities.** The Human Resources Management Officer will provide advice and assistance on the administrative aspects of the service and work collaboratively with the Employee Occupational Health Service staff. The Human Resources Management Officer will:

(a) Assist the head of the station in arranging for an Employee Occupational Health Service.

(b) [Coordinate with appropriate fiscal and supply personnel to identify EOH] funding options/requirements within their designated organization including fund control points. Collaborate with the [AMO and other appropriate personnel] where necessary in obtaining required space, equipment, supplies and staffing.

(c) Interpret for local management, the [AMO,] other employee occupational health staff and VA employees, the administrative provisions of VA directives and informational releases affecting the Employee Occupational Health Service.

(d) Give due consideration to findings and recommendations of the examining EOH provider before approving or recommending approval of any given employment action, as provided in other parts of this handbook.

(e) Collaborate with [EOH] staff to ensure that examinations are being scheduled and completed in a timely manner.

(f) Assist [with] EOH [ ] promotion, disease prevention [ ] [and] employee wellness, especially in the areas of display and distribution of promotion materials, the showing of films of or by health associations and others, and arrangements for participation in free, local civic health programs, including arrangements for lectures. [ ]

**4. COOPERATION WITH PUBLIC HEALTH AGENCIES.** In the interest of protecting VA beneficiaries and employees, VA facilities will cooperate with national, state, county, and local public health agencies to protect against disease of public health significance.

## 5. TREATMENT

### a. Nature and Extent of Non-Work Related Treatment

(1) [ ] If an employee suffers a minor [health problem] which interferes with their ability to perform their duties, treatment may be provided. Treatment will be limited to relief of discomfort enabling them to remain at work. These treatments are not intended to provide definitive health care or replace the employee's health care provider. The employee will be referred to their health care provider for any necessary follow-up or definitive care.

(2) When an employee develops symptoms of a serious [ ] illness, appropriate care to stabilize the employee will be provided. Suitable transportation to an appropriate hospital, clinic, or physician's office will be facilitated. In the event that transportation or hospitalization is required, the employee is responsible for associated costs.

(3) At the discretion of the responsible EOH health provider, treatments and medications prescribed in writing by a personal health provider and furnished in appropriately labeled containers by the employee may be administered to maintain the employee at work. Appropriate emergency equipment must be readily available [ ].

### b. Nature and Extent of Work-Related Treatment

(1) Employees who claim a work-related injury shall elect the health care provider of their choice. [EOH] will provide definitive medical care when an employee who sustains a work-related traumatic injury elects [EOH] as the treatment provider.

(2) Employees who claim a work-related illness shall elect the health care provider of their choice. [EOH] can be that health care provider if the occupational illness claim is accepted (adjudicated) by the Department of Labor's Office of Workers' Compensation Programs and the employee elects [EOH] as the treatment provider.

**c. Hospitalization of Employees.** [If the facility has hospital facilities, an employee may be hospitalized under the following conditions:]

(1) [As a beneficiary of the Office of Workers' Compensation Program for a work-related illness or injury. Such hospital care may be authorized by VA Directive 5810, Managing Workers' Compensation Cases and Costs.].

(2) [As a beneficiary of VA if he or she is an entitled veteran of the Armed Forces.]

[(3) On an emergency basis under the provisions of 38 U.S.C. 611(b) and VA medical regulations and procedures issued pursuant thereto. Such hospital care is authorized as a humanitarian service in emergency cases but a charge will be made therefore. The billing for these charges shall be explained to the employee or his/her family, as circumstances indicate, at the time hospitalization is being considered or effected. (It should be noted; however, that some of the Federal Employees Health Benefits Insurance carriers will not reimburse the employee or VA for such emergency hospitalization unless the carrier determines that the employee's condition required emergency hospitalization in a VA medical center.)]

**d. Charges for Treatment and Hospitalization**

(1) **Work-Related Illness or Injury.** See [VA Directive 5810, Managing Workers' Compensation Cases], for instructions on [charges to be made to] the Office of Workers' Compensation Programs for outpatient treatment or hospitalization of VA employees whose condition is attributable to the performance of duty.

(2) **Non-Work Related Injury, Illness.** Treatment provided to employees who are not entitled Veterans of the armed forces [or beneficiaries of the Office of Workers' Compensation Programs] will be billed at the current humanitarian rate. The billing for this humanitarian care shall be explained to the employee.

**NOTE:** *Some Federal Employees Health Benefits Insurance carriers will not reimburse the employee or VA for such emergency hospitalization unless the carrier determines that the employee was not stable enough to be transported and employee's condition required emergency hospitalization in a VA medical facility.*

**e. Bed Rest.** Employees may be permitted to use available facilities for bed rest if their physical condition requires it as follows:

(1) Occasional periods of bed rest, not in excess of 1 hour in any 1 day, are permitted without loss of pay or charge to leave. Employees may be required to furnish satisfactory evidence of the need for bed rest.

(2) Regular bed rest for a period each day with charge to leave may be permitted for employees returning from extended sick leave, convalescing from an operation, or having another medical reason upon recommendation of the EOH provider or receipt of acceptable medical documentation from the employee's private provider.

**6. [EMPLOYEE] HEALTH [ ]AND [ ] WELLNESS**

a. [The purpose of the VA employee health and wellness program is to focus on the overall health and well-being of VA employees by helping them to establish and maintain healthy lifestyles through educational tools and resources by increasing awareness on the benefits of health, wellness and physical activity in order to provide high-quality services to our Veterans and their families.] These services/ programs encourage and enable employees to initiate and maintain healthy behavior changes. [ ] [M]aintaining a supportive physical and social environment is central to promoting healthy lifestyles for employees. Activities may [include] the following:

(1) **Exercise.** Physical exercise programs should address the three major elements: cardiovascular (fitness, aerobic) capacity that increases one's efficiency; strength training with implications for strength increase and bone protection from increased bone mass; and flexibility through stretching, yoga, or other forms of exercise to improve flexibility.

(a) **Facility/Infrastructure.** Facilities may establish and operate physical fitness programs and facilities designed to promote and maintain employee health. Facilities may establish on-site fitness facilities, use the services of a private facility, or share a fitness facility with another Federal agency

through an inter-agency agreement. Such arrangements are authorized by the Economy Act, 31 U.S.C. 1535. Note that physical activities may be offered without special facilities. In addition to providing programs and fitness facilities, facilities may encourage an active lifestyle by issuing policies that support flexible work schedules and/or create environments that encourage active and healthy lifestyles such as providing showers, locker rooms, bike racks, running maps, and healthy vending machine choices. Other exercise facilities may be provided through use of therapeutic pools or gyms initially constructed for patient care. Service agreements with Physical Medicine and Rehabilitation for use of gyms or therapeutic pools are necessary.

(b) **Individual Level Considerations.** Building exercise into each employee's daily pattern of living will provide the most robust approach to long-term exercise. Identifying willingness or interest in change represents a critical first step. The subsequent actions may involve purchasing small hand weights, providing stretching or yoga guidance and access, and identifying aerobic opportunities. Common solutions are walking, bicycling, or running to work; creating an exercise group at home (walking, bicycling, etc.); or creating such group activities in the workplace at lunch. [ ] Facilities may support [ ] activities such as bicycling by providing bicycle lockers or racks.

## (2) Diet and Nutrition

(a) **Facility Level.** Working with food and nutrition services to ensure posted calories, low-fat and healthy foods, and other local resources such as diet counseling may be useful.

(b) **Individual Level.** Building diet assessment and changes in eating habits into each employee's daily pattern of living will provide the most successful approach to long-term control. Identifying willingness/interest in change represents a critical first step.

(3) **Tobacco Cessation.** Tobacco cessation programs are considered preventive in nature and are authorized under 5 U.S.C. 7901(c) (4), which provides Federal agencies with the authority to use appropriated funds to pay the costs of tobacco cessation programs. Tobacco cessation programs should include individual and group counseling and [a form] of pharmacologic therapy such as nicotine replacement therapy.

(4) **Stress Management.** This should be addressed at an organizational and individual level. Stress management at an individual level can involve a stress assessment tool that can be part of a health risk appraisal or a standalone tool. Many facilities have developed other local initiatives including meditation rooms, group yoga sessions, and mindfulness-based stress reduction classes. In general, meditation techniques have shown some benefit in reducing stress levels among employees at work. Employees presenting with psychosocial problems should be referred to facility Employee Assistance Program or their private provider.

## 7. DEFINITIONS

a. **Employee.** For the purposes of this handbook, any individual duly appointed into a Federal position in the Department of Veterans Affairs either in the excepted or competitive Service, or individuals identified as defined in Appendix I-A of this part.

b. **Employee Assistance Program (EAP).** A voluntary, work-based program that provides cost free and confidential assessment, short term counseling, referral, and follow up services to employees who have personal and/or work related problems that may affect attendance, work performance, and/or conduct such as substance abuse, biopsychosocial problems or life stresses.

c. **Employee Occupational Health Service.** The [EOH] promotes the creation of a safe and healthful working environment for VA employees. The [EOH] provides a comprehensive, employee occupational health, safety and wellness program for VA employees supporting the values and mission of VA.

d. **Employee Occupational Health Provider.** A physician licensed to practice medicine and authorized by credentialing, training, and/or experience to provide employee occupational health services in the work environment. [This also includes] [ ] advanced practice registered nurses (APRNs) and physician assistants (PAs) [ ]. Some practice elements, such as care provided under the Federal Employee Compensation Act (FECA) require physician co-signature.

[e. **Facility Agency Medical Officer.** A Facility Agency Medical Officer is an Employee Occupational Health physician who preferably is board certified or board eligible in occupational and environmental medicine. The AMO is responsible for uniformly and consistently applying medical decisions and policies for the EOH program at the facility.]

[f.] **Medical Evaluation.** Medical evaluations are conducted for pre-placement [of] those applicants who do not have medical [standards] or physical [requirements]. These evaluations include a health history, occupational history, immunization history and tuberculosis screening. These evaluations are completed in health care facilities not to determine suitability but rather to meet Center for Disease Control and Prevention (CDC) and The Joint Commission standards.

[g.] **Medical Examination.** Though stated in Federal regulations as a physical examination, this term reflects the need for an examination that looks at the physical as well as mental and emotional capabilities of an employee [and identification of condition(s) that might prevent them from performing the essential functions of the job without risk of injury to self or others]. [ ]

[h.] **Medical Standards.** [Standards that are established for an entire occupation across the Federal Government by the Office of Personnel Management. Medical standards specify those] minimum requirements necessary for safe and efficient performance directly related to the actual requirements of the job. [VA may establish medical standards for positions for which VA employs 50 percent or more of Federal employees in the occupation. Medical standards for positions established by VA must be approved by the Office of Personnel Management (OPM) prior to implementation in accordance with 5 CFR 339.202]

[i.] **Medical Surveillance.** Those examinations scheduled and completed because of a position's potential for or actual exposure to hazardous or dangerous substances during one's employment, e.g., [ ] asbestos examinations, [and hearing conservation], etc. Medical surveillance examinations, for which Occupational Safety and Health Administration (OSHA) standards exist, must be offered to individuals, but individuals have the right to refuse such examinations [ ].

[j.] **Medical Surveillance Program.** A group of systematic evaluations put in place for positions with established, and often mandated, standards involving health and safety requirements for jobs using personal protective equipment (PPE), Exposure Levels, Permissible Exposure Levels (PEL), Time Weighted Average (TWA), or other designated monitoring criteria.

[k.] **Not Medically Qualified.** An individual's health condition, which may adversely affect job performance or safety to an unacceptable degree. If [an] EOH [ ] physician assistant or advanced practice registered nurse determines, based upon pre-determined physical criteria, that an individual is not medically qualified to perform the essential components of their job, [an] EOH physician must agree in writing with that determination. The existence of a direct relationship between the individual's health and the essential duties of the specific position to be filled should be the primary consideration for a VA examining EOH provider making this determination.

[l.] **Personal Protective Equipment (PPE).** Those pieces of equipment, clothing or devices used to limit one's exposure to hazards or dangerous substances during the course of employment. Examples: Clothing – shoes, safety glasses, non-latex gloves. Equipment – lead shielding, respirators. Devices – hearing protection.

[m.] **Physical Requirements.** Requirements established for individual positions in occupations that do not have Medical Standards as defined above. Physical requirements are those physical, mental and emotional capabilities and characteristics that are essential for successful job performance. Physical requirements must be clearly supported by the actual duties of the position and documented in the position description or functional statement, and supported by a study(ies) or evaluation(s) establishing physical requirement(s) is job-related to the occupation(s). An applicant or employee may not be disqualified arbitrarily on the basis of physical requirements or other criteria that do not relate specifically to performance of the duties of a specific position.]

[n.] **Reasonable Accommodations.** Job modifications made in the duties or functions of a job in order to accommodate a [qualified person with a] disability [that enables the employee to perform] the essential functions of the job, [unless the accommodation would place] an undue burden on others performing the same work or creat[e] [an undue burden] on the facility which might then impact on its ability to fulfill its mission. (See 29 CFR 1614.203 and VA Handbook 5975.1 concerning accommodation issues).

[o.] **Special Physical Examination.** A special examination [to determine fitness for duty is] requested through Human Resources Management based on documented deficiencies in job performance and reasonable suspicion that the deficiency is related to physical or mental impairment. [Special physical examinations may be ordered for employees who occupy a position with medical standards, physical requirements or subject to an established medical evaluation program (See 5 CFR. 339.301.) This includes annual physical examinations for motor vehicle operators, firefighters, police officers, and boiler plant operators.]

APPENDIX A. [ELIGIBILITY FOR SERVICES]

Category	Occupational Safety and Health Act: injury reporting under 29 CFR 1904	Federal Employee Compensation Act: compensation for injuries under 20 CFR 10	The Joint Commission and professional standards: example - tuberculosis program	Billing for services to other agencies: placement physical examinations and vaccinations	Billing to employee for non-occupational services
Students and trainees not on VA payroll	yes	DOL decision (can file but not formally eligible)	initial evaluation and documentation responsibility of academic affiliate, as per VA Form FL-10-341b, Trainee Qualification and Credentials Verification Letter (TQCVL)	per agreement	yes
Students and trainees on VA payroll	yes	yes	yes	per agreement	yes
Without Compensation Employees	yes	DOL decision - private sector agreements exclude workers compensation	yes	per agreement	yes
[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Contractors working under VA supervisors	yes	DOL decision	yes		yes
Contractors working on VA grounds under outside supervisors	yes	no	no, documentation as per contract and directive	not eligible	yes
Title 5 employees	yes	yes	yes		yes
Title 38 Employees	yes	yes	yes		yes
non-VA employees - other Federal agencies	no	no	no	per agreement	yes

**PART I**

**APPENDIX A**

Fee-basis employees	yes	DOL decision	yes	not eligible	yes
Locum tenens	yes	DOL decision	yes	not eligible	yes
[Volunteers]	[yes]	[DOL decision]	[yes]	[Per agreement]	[yes]

EMPLOYEE OCCUPATIONAL HEALTH SERVICE

PART II. EXAMINATIONS AND EVALUATIONS

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**EMPLOYEE OCCUPATIONAL HEALTH SERVICE****PART II. EXAMINATIONS AND EVALUATIONS****1. PURPOSE OF MEDICAL, PSYCHIATRIC, AND PSYCHOLOGICAL EXAMINATIONS**

a. It is VA's policy to ensure that applicants and employees are physically, cognitively and emotionally fit to perform the duties of the position to which they are assigned. The requirement for a pre-placement examination or evaluation applies to all full-time, part-time, and intermittent employees identified in paragraph 3 below. Within the limitations set forth in this handbook, VA facilities may use available resources to conduct examinations and evaluations without charge for the purpose of:

(1) Initial and subsequent official VA personnel actions.

(2) Assisting employees in health promotion and disease prevention.

(3) Safeguarding the health and safety of employees and others.

(4) Detecting unsafe working conditions or those which may pose health hazards.

(5) Detecting diseases, discussing any detected non-work related medical findings with the employee and recommending consultation with a personal health care provider.

(6) Determining whether the employee is medically able to return to work or resume regular duties without impairing his/her own health or the health of others after a period of injury or illness (three days or earlier if medically indicated).

b. Employee occupational health examinations and evaluations must not interfere with the services provided to VA beneficiaries.

c. Employee occupational health examinations and evaluations must not interfere with the care and treatment provided by a personal health care provider.

**2. CONDUCT OF THE EXAMINATION AND EVALUATIONS.**

[a.] EOH providers, using VA equipment and facilities, will perform medical examinations and evaluations and review submitted information provided by other health care providers as set forth in this handbook. If such personnel and resources are not available at the facility and the examination or evaluation of employees is required, the facility director will have the necessary examinations, tests, or X-rays performed at the nearest VA facility or other Federal hospital or clinic where the resources are available, or on a fee basis or by contract with an outside medical facility or physician, whichever is more advantageous to the Government. Any required examination may be conducted at another VA facility with EOH services although the expectation is that individuals will be examined or evaluated at the parent facility. Applicants and employees will not be billed for required examinations and tests performed by VA.



[b. In rare circumstances facilities may arrange to have prospective applicants who live outside of a normal commuting area of a VA or other Federal facility, undergo a pre-placement physical exam using a private physician, physician assistant, or an advanced practice nurse. Such arrangements would be restricted to circumstances where the required use of VA or other Federal facilities, fee basis, or contract resources would place an undue burden on the prospective appointee and delay the hiring process.] [These pre-placement examinations completed by a private provider must be authorized by the facility Human Resources Officer, in coordination with EOH and in accordance with VA fiscal guidelines. Private practitioners will be provided and required to complete the OF-178. The OF 178 and all other pertinent information will be reviewed and approved by EOH prior to the candidate's appointment.]

### [3. PAYMENT FOR EXAMINATIONS.]

[a. **Agency Responsibilities.** The agency is responsible for payment of all medical, psychological, and psychiatric examinations required or offered by the agency.

[b. **Applicant and Employee Responsibilities.** An applicant or employee is responsible for payment of medical examinations, testing, or documentation under the following circumstances:

(1) When the final medical determination by EOH finds the applicant or employee medically ineligible, the applicant or employee is responsible for payment of any further examination, testing, or documentation which they voluntarily elect to submit for consideration and further review;

(2) When the applicant or employee elects to provide requested information to the agency, relative to an identified medical or physical condition in question, or the agency needs medical documentation to render an informed management decision, the applicant or employee must pay all costs associated with obtaining the medical documentation;

(3) The applicant or employee must pay for a medical examination performed by his or her private licensed physician or practitioner where the purpose of the examination is to secure a change sought by the applicant or employee (e.g. change in duty status, reasonable accommodation).]

#### [4.] PRE-PLACEMENT PHYSICAL EXAMINATIONS AND EVALUATIONS

a. **Pre-Placement Examination.** [An applicant or employee may be required to have a pre-placement examination, subsequent to a tentative offer of employment or reemployment.] Prior to appointment, the responsible Human Resources Office will provide the Employee Occupational Health Service with OF-178, Certificate of Medical Examination or other approved form, which clearly identifies the physical, mental and cognitive requirements of the job in which the individual is being considered.

(1) [A] pre-placement physical examination to determine the physical, cognitive and emotional fitness of candidates for appointment in VA is required, and shall be completed prior to appointment, for all full-time, part-time and intermittent positions in the following categories:

(a) Individuals appointed [in title 38 occupations under 38 U.S.C. 7401(1) or 7405. This includes] physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, expanded-function dental auxiliaries, chiropractors, [ ] [and] graduate nurse technicians [ ];

(b) [Individuals appointed in title 38 hybrid positions under 38 U.S.C. 7401(3) or 7405 who have established medical standards (by the Office of Personnel Management or VA) for the occupation or if physical requirements are prescribed in the functional statement for the position];

(c) [Residents, interns and medical consultants appointed under 38 U.S.C. 7406. Examinations are not required for these employees if they furnish evidence of satisfactory physical condition as defined in the Training Qualification Letter. This is based on physical examination within the 12 months prior to appointment. However, a pre-placement evaluation is required to meet CDC and Joint Commission recommendations and standards if the individual will be working in a health care facility];

[(d)] All title 5 Wage Grade employees;

[(e)] [Title 5] employees in occupations with medical standards;

[(f)] [Title 5] employees in positions for which physical requirements have been established;

[ ]

(2) A pre-placement examination must be completed in advance of the proposed appointment date to permit the results to be fully evaluated. An examination is required in any conversion action from a status or position not requiring a physical examination to one requiring such procedures. A pre-placement examination is also required when an employee changes positions or duties that have different physical requirements or medical standards from their prior position. A physical examination is not required when a position change does not involve different physical requirements or medical standards.

(a) Physical examinations of applicants separated from the U.S. Armed Forces within 90 days of appointment may be substituted for a pre-placement physical exam if the components of the examination address the medical standards and physical requirements of the position.



(b) Pre-placement examinations are valid for 90 days. In the event that a candidate is not placed in the position within 90 days of the pre-placement examination, EOH staff will re-evaluate the applicant's ability to meet the physical requirements and or medical standards of the position.

[(c)] separate and rehired pre-placement exam or evaluation is required.

[(3)] The examination will be concerned with the physical, cognitive and emotional ability of the applicant to perform the essential functions of the proposed assignment satisfactorily. Laboratory and ancillary tests are authorized as required by Federal regulatory agencies and only tests which assist the EOH provider in determining whether or not the candidate meets the physical requirements and medical standards of the job may be performed. Tests for health promotion are not to be included in these examinations.

b. **Pre-Placement Evaluation.** [A pre-placement physical evaluation is required and shall be completed for VHA full-time, part-time and intermittent positions not covered in subparagraph a above and for all other VA applicants who will be assigned to work in a VHA healthcare facility. A pre-placement evaluation must be completed prior to entry on duty. This must include an occupational history, immunization status and health and tuberculosis screening.]

(1) Physical evaluations of applicants separated from the U.S. Armed Forces within 90 days of appointment may be substituted for a pre-placement physical evaluation if the components of the evaluation address requirements above.

(2) Pre-placement evaluations are valid for 90 days. In the event that a candidate is not placed in the position within 90 days of the pre-placement evaluation, EOH staff will determine the need for further evaluation.

c. **Medical Clearance.** The EOH Provider shall notify Human Resource Management staff of the status of medical clearance. When the results of an EOH examination done by an EOH Nurse Practitioner or Physician Assistant places into question the employee's ability to perform the essential elements of the job: [an] EOH physician will review the medical documentation for concurrence and signature before notifying Human Resource Management staff.

## [5.] ANNUAL HEALTH PROMOTION EVALUATIONS

a. **General.** All employees, including residents employed by the VA, are encouraged to have an annual health promotion evaluation. The annual health promotion evaluation will be voluntary and at the request of the individual employee. These health promotion evaluations should be consistent with recommendations of the US Preventive Services Task Force and the CDC Community Guide to Preventive Services.

b. **Health Promotion Evaluation.** Each administration [ ] will determine how comprehensive the [health promotion] evaluation will be. The evaluation [should] follow current recommendations of the US Preventive Services Task Force and the CDC Community Guide to Preventive Services. A Health Risk Appraisal is an important part of a health promotion evaluation. **Employees will be informed in writing of any discrepancies or abnormalities identified in the evaluation;** and they will be encouraged to follow-up with treatment or corrective action with their private provider as soon as possible. EOH should consider having a list of community resources for employees that may not have a personal provider.

c. **Screening Tests.** As part of the health promotion evaluation, each employee may be offered screening tests which are consistent with current A and B recommendations of the US Preventive Services Task Force and the CDC community guide on preventive services. Although screening tests are encouraged as part of a comprehensive health promotion program, they may be offered independently.

d. **Place of Evaluation.** Employees who request VA to conduct a health promotion evaluation will normally be examined or tested at their duty station.

**[e. Action on Evaluation Findings.**

(1) The employee will be told prior to the evaluation that the results will be kept confidential unless conditions are discovered which are considered hazardous to the health and well-being of self and others. When such conditions are discovered, management will be informed in a way that respects medical privacy (HIPAA). The report will clarify that the individual poses a threat or hazard to others.

(2) The EOH provider will discuss the findings with the employee. Employees will be notified in writing of any abnormalities uncovered which they should bring to the attention of their private provider for follow-up or treatment.

(3) The report of the evaluations will be filed in the Employee Medical Folder (EMF).

**f. Payment of Health Promotion Evaluation Costs.** The cost of evaluations conducted under this program at a VA facility will be borne by the Department.]

**[6.] SPECIAL PHYSICAL EXAMINATIONS**

**a. General.** Special physical examinations may be authorized by the Secretary, Administration and Staff Office Heads, or designees, or facility directors for employees identified in [paragraph 3 above and those covered by] Appendix A [of this Part]. A special examination and employee authorization to release the ensuing reports are considered conditions of employment. A directed or special physical examination may be required to solve questions of physical, cognitive or emotional ability to perform the essential duties of a position satisfactorily. An examination may also be necessary to determine physical, cognitive and emotional fitness to resume duty after illness [or injury]. A special physical examination may only be ordered or offered when the inquiry is job-related and consistent with business necessity. An employee may not be subjected to a special physical examination for the [sole] purpose of [ ] ruling out a medical reason for misconduct, performance issues, or other behavior. Employees must sign an authorization to release information form prior to undergoing any directed or special physical examination and made aware that results of the examination may be shared with leadership or others with a need to know in an effort to continue the mission of the Department. Failure of the employee to submit to a directed or special physical examination or to sign the authorization form may result in disciplinary action, including removal from employment with the Department. [Employees may elect to provide management with additional health information from their health care provider(s), however facilities cannot require employees to provide copies of their own personal health information for directed or special physical examinations. Apart from the results of a directed or special physical examination, facilities may not use any employee personal health information, unless voluntarily provided by the employee, in any disciplinary or performance-based action against the employee.]

**NOTE:** *According to 29 CFR 1630 in order to establish that an examination is “job related” and “consistent with business necessity” there must be a reasonable belief, based on objective medical evidence, that the employee’s ability to perform essential job functions will be impaired by a medical condition, or there is a reasonable belief, based on objective medical evidence, that the employee poses a threat due to a medical condition.*

**b. Special Physical Examination to Determine Fitness-for-Duty.** [A Special Physical Examination is a medical examination that may be ordered or offered to determine an employee's ability



to perform assigned duties. Special Physical examinations must be ordered or offered in writing in accordance with subparagraph f below.]

(1) **Agency Ordered [Special Physical] Examinations.** An employee may be ordered to undergo a special physical examination [ ] only when the employee occupies a position with established medical standards or physical requirements [(see paragraph 3 and Appendix II-A, of this Part) and the agency has a reasonable belief, based on objective evidence, that there is a question about an employee's continued capacity to meet the medical standards or physical requirements of a position.]

(2) **Agency Offered Fitness-for-Duty Examinations.** A[n] examination may be offered to any employee when additional information is needed to make an informed management decision. [Reasons for offering the examination must be documented. When an offer of an examination has been made and the offer has been accepted by the applicant or employee, the examination must be carried out and the results used in accordance with the authorities cited in 5 CFR 339.103 for compliance with the American with Disabilities Act (ADA) and the Rehabilitation Act of 1973. An

agency offered fitness-for-duty examination is appropriate in any of the following circumstances:

(a) When a request is made by an employee for a particular employment benefit when requested for medical reasons, i.e. change in tour, change in duties, telework, etc, and there is insufficient medical evidence for management to act on such a request;

(b) When an employee has made a request for a reasonable accommodation and there is insufficient medical evidence for management to act on such a request;

(c) When an employee raises medical issues in response to identified performance or conduct issues and there is insufficient medical evidence for management to consider the employee's claim; or

(d) Any other situation where management has a need for further medical information in order to make an informed management decision based on a legal need to know basis or legitimate business necessity.

**c. Other Special Physical Examinations.** An employee may be required to undergo a directed or special physical examination on a regular recurring basis or periodic basis after appointment in the following situations:

(1) When an employee has applied for or is receiving continuation of pay and/or compensation as a result of an on-the-job injury or disease to determine medical limitations that may affect placement decisions;

(2) When an employee is released from his or her competitive level classified position during a reduction-in-force (RIF) if the position to which the employee has reassignment rights has medical standards or physical requirements which are different from those required in the employee's current position;

(3) When an employee occupies a position that is part of an established medical evaluation program under part IV of this Handbook.

**d. Psychiatric [Examinations] and Psychological [ ] Assessments.** Psychiatric [examinations] and psychological assessments diagnose or assess the mental health performance or conditions of an individual. Such examinations and assessments may be ordered for employees in positions that have established medical or physical standards that include a psychological requirement.

**(1) Agency Ordered Psychiatric [Examinations] and Psychological [ ] Assessments.** [Psychiatric] examination[s] [or] [psychological] assessment[s] [ ] must be conducted in accordance with accepted professional standards, by a licensed [ ] physician [certified in psychiatry by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Psychiatry and Neurology, or by a licensed psychologist or clinical neuropsychologist]. They may be used only to make legitimate inquiry into a person's [mental fitness as it directly relates to successfully performing the duties of the position without significant risk to the applicant or employee or others, and/or to the vulnerability of business operation and information systems to potential threats]. An employee may be ordered to undergo an [examination or] evaluation only in one of following circumstances:

(a) When the result of a current general medical exam as part of a special physical examination indicates no physical explanation for behaviors or actions [that may] affect the safe and efficient performance [of the applicant or employee, the safety of others, and/or the vulnerability of business operation and information systems to potential threats; or]

(b) When a psychiatric examination is specifically called for in a position having medical standards or subject to a properly established medical evaluation program; or

(c) When an employee has filed a claim for benefits under the Federal Workers' Compensation Program and the claim is related to a stress or psychological issue. In these instances the psychiatric examination may be ordered when the employee has provided insufficient medical evidence needed by the agency to properly determine the extent of medical impairment related to the claim of the employee.

(2) **Agency Offered Psychiatric Exams.** An employee may be offered a psychiatric or psychological examination or psychological assessment in any situation where management needs additional medical documentation to make an informed decision. These may include situations where an individual requests for medical reasons a change in duty status, assignment, working conditions, or any other benefit or special treatment (including reasonable accommodation or reemployment on the basis of full or partial recovery from a medical condition) or where the individual has a performance or conduct problem which may require agency action. The reasons for offering an examination must be documented.

**NOTE:** *If an employee occupies a position that has medical standards or physical requirements and is ordered to undergo fitness-for-duty or psychiatric examinations or psychological assessments then the agency must be able to articulate a reason that the employee's ability has come into question and articulate the reason to the employee when ordering the exam. If the employee's position does not have properly established medical standards or physical requirements or there is no basis to order the examination based on a "job related" or "business necessity" then there is no regulatory authority to order a fitness-for-duty, psychiatric examination, or psychological assessment.*

e. **Place of Examination.** The same instructions will apply as those set forth above in paragraph 2 of this part. At their own expense, employees may have tests and diagnostic procedures performed by other than a VA EOH provider and/or facility. The VA EOH provider will review all medical information provided by outside providers to ensure that the information submitted meets the established VA standards.

f. **Notice to Employee.** An employee will be given advance written notice of a special physical examination [ ]. The letter ordering or offering a special physical examination to determine fitness-for-duty, psychiatric or psychological examination or assessment must be signed by the Facility Director, or equivalent, or the Human Resources Officer (if designated by the Facility Director). The notice will include:

(1) Reason for examination;

(2) Date, time and location of examination (include travel information, if appropriate);

(3) Right to submit physical examination results or other medical evidence obtained at the individual's own expense for consideration by the VA EOH provider and/or, if appropriate, by a Physical Standards Board (see part III of this handbook);

(4) The results of the examination may be shared with leadership or others with a need to know [in order to continue the mission of the Department. For Title 38 and Title 38 hybrid employees this may include sharing results of the clinical examination with the Physical Standards Board]; and

(5) Failure of the employee to sign the [Request For and Authorization to Release Medical Records or Health Information, Form VA 10-5345] constitutes refusal of a directed or special examination and may be grounds for disciplinary action [ ].

**NOTE:** *When a special physical examination is required in connection with a possible agency-initiated disability retirement, representation will be allowed as provided in OPM, CSRS, and FERS Handbook for Personnel and Payroll Offices, Chapter 60 (Disability Retirement).*

**[7.] TRAVEL FOR MEDICAL EXAMINATIONS.** When travel of an employee is required for mandated medical or psychiatric and psychological examinations and assessments, issuance of the necessary travel order is authorized. No travel for such examinations or assessments may be authorized for [job applicants]. If examinations or tests are authorized on a fee basis, they will, if feasible, be done in the local community and no travel may be authorized. If examination on a fee basis in another community is required, the field facility head, Network Director, Regional Director, Area Office Director, or administration or staff office head may approve such travel at Government expense.

## **[8]. MEDICAL ACTION ON REPORTS OF EXAMINATIONS AND EVALUATIONS**

a. **Responsibilities.** The EOH provider will review reports of examinations and evaluations, x-rays, and other laboratory tests for employees or [applicants for appointment]. Employees will be informed in writing of any discrepancies or abnormalities identified; and they will be encouraged to follow-up with treatment or corrective action as soon as possible with their personal primary care provider. EOH should consider having a list of community resources for employees that may not have a personal provider. Where there is no designated EOH provider, the Human Resources Management Officer will be responsible for arranging for the medical examination, evaluation, and review of reports of examinations, X-ray, and laboratory tests. Such programs require oversight by a VA designated EOH physician.

b. **Report [of Findings] to Management.** All pre-placement physicals and special examinations performed by EOH [will be reported] ([by] formal report or approved form) to the Human Resources Management Officer for appropriate disposition. If a candidate or employee cannot perform the essential functions of the position, the EOH provider will inform Human Resources as to which essential functions of the job were not met. [ ]



**APPENDIX A. MEDICAL CONDITIONS AND CRITERIA COVERING  
MEDICAL EVALUATIONS FOR MOTOR VEHICLE OPERATORS, FIREFIGHTERS,  
POLICE OFFICERS, AND BOILER PLANT OPERATORS**

Special examinations are required for motor vehicle operators, firefighters, police officers and boiler plant operators [ ]. EOH providers shall complete OF 178, Certificate of Medical Examination, or equivalent form. A statement as to whether the candidate does or does not meet the essential functions of the job shall be sent to Human Resource Management. If the candidate does not meet the essential functions of the position, the EOH provider will notify Human Resources as to which essential functions of the job are not met. [ ]

### **1. MOTOR VEHICLE OPERATORS**

a. [All motor vehicle operators and incidental drivers shall undergo a standard pre-placement examination and periodic medical evaluation at least once every 4 years to ensure that employees who operate government owned or leased vehicles are medically able to do so without undue risk to themselves or others.] Categories of drivers covered include:

(1) Individuals, including wage-grade drivers, title 5, title 38, and hybrid title 38 employees or volunteers who drive government owned or leased vehicles that do not require a commercial driver's license (CDL) nor who transport patients must be medically cleared according to 5 CFR 930.108 and the provisions of 5 CFR 339.104.

(2) Individuals, including wage-grade drivers, title 5, title 38, and hybrid title 38 employees or volunteers who drive government owned or leased vehicles that do require a commercial driver's license (CDL) must be medically cleared according to 49 CFR 391.41.

(3) Individuals, including wage-grade drivers, title 5, title 38, and hybrid title 38 employees or volunteers who transport patients shall be medically cleared utilizing the medical conditions and medical criteria established by the VHA Occupational Health Services.]

(4) Heavy equipment motor vehicle operators.

b. **Purpose/Scope.** The goal of the motor vehicle operator examination is to assure that motor vehicle operators can drive themselves and passengers safely, react to emergencies and, where appropriate, perform basic life support [(BLS)].

[(1) Volunteer drivers who drive vehicles for the Volunteer Transportation Network (VTN) are not required to perform BLS and basic cardiac life support.

(2) Volunteer drivers who drive vehicles for the Veterans Transportation Service (VTS) are required to be BLS certified, due to the level of assistance that may be required in transporting these patients.

(3) Employee drivers who transport patients are required to be BLS certified.]

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c. **Critical Tasks and Responsibilities.** Critical tasks include safe driving, appropriate transportation of objects or patients, and basic cardiac life support.

d. **Critical Core Elements for Clearance.** [In order to ensure employee, public and patient safety, VA policy requires that all those who drive a vehicle for VA be medically evaluated. The level of evaluation will be based on legal and regulatory requirements (i.e. Commercial Driver License requirements), the size of vehicle, number of passengers, length of time on the road and other applicable job factors. As required by EEOC, medical conditions of the employee-driver will be evaluated on a case by case basis to determine, in the employee occupational health (EOH) provider's opinions, if the employee can safely perform the driving duties required of the job.]

[ ]

e. **Pre-placement Examinations.** All individuals shall undergo examination before they are permitted to drive.

f. **[Employee] Examinations.** Individuals under the age of 55 shall be examined every four years. Between the age of 55 and 65, employees shall be examined every two years. After the age of 65, employees shall be examined every year. When the EOH determines that the [employee] has conditions present that warrant more frequent examination, the [employee] will follow those recommendations. Prior to undergoing these examinations, the employee must sign an authorization to release information form and be made aware that results of the examination may be shared with Human Resources Management or others with a need to know. Failure to participate in these examinations or to sign the authorization form may result in disciplinary action, including removal from employment with the Department.

[ ]

**2. FIREFIGHTERS**

a. **Criteria.** [ ] Firefighters [and firefighter chiefs] must be able to meet the physical demands of the position. Medical and physical standards for firefighting are addressed both by OPM and the National Fire Protection Association (NFPA) in standards 1582 and 1583. [The elements required by the examination are completed by the EOH provider annually using the OF-178 form.]

b. **Purpose/Scope.** The goal of medical examinations for firefighters, including firefighter chiefs, is to assure that there are no medical contraindications to performing the essential functions of their job. The goals are to:

(1) Support ongoing physical fitness and the ability to perform the duties of a firefighter as identified by the training officer;

(2) Support the completion of firefighting tasks safely; and

(3) Decrease the risk of adverse medical events.

[ ]

**[c.] Critical Core Elements for Clearance.**

(1) **Initial/Pre-placement.** Firefighter [applicants] must demonstrate to the satisfaction of the EOH provider that they can perform the essential functions of the job [ ]. [Examinations will address the functional requirements and environmental factors identified on the OF-178 form, Report of Medical Examination, or other approved form.] [ ]

(2) **[Employees].** [Employees] must demonstrate to the satisfaction of the EOH provider that they can perform the essential functions of the job [ ]. [Employees], on an annual basis, must meet medical evaluation criteria as outlined in NFPA Standard 1582, Chapters 7 and 8. [ ] Employees may not refuse to participate in the annual examination. Prior to undergoing the annual examination, the employee must sign an authorization to release information form [(VA Form 10-5345)] and be made aware that results of the examination may be shared with Human Resources Management or others with a need to know. Failure to participate in the annual examination or to sign the authorization form may result in disciplinary action, including removal from employment with the Department.

**3. POLICE OFFICERS**

a. **Criteria.** [ ] [A]ll police officers, including police chiefs, shall undergo the standard pre-placement and annual medical examination and be evaluated specifically for cardiovascular fitness and psychological stability by EOH. [ ]

b. **Purpose/Scope.** The goal of medical examinations for police officers is to assure that there are no medical contraindications to performing the essential functions of their job. The goals are to:

- (1) Decrease the risk of adverse medical events;
- (2) Support the completion of police officer tasks safely; and
- (3) Support physical fitness and ongoing ability to perform work as a police officer [ ].

c. **Critical Tasks and Responsibilities.** Police officers must [meet the physical fitness standards and testing requirements as they are referred to in VA Directive and Handbook 0730, Appendix A.]

d. **Initial/Pre-placement Examinations.** [Police officer applicants must demonstrate to the satisfaction of the EOH provider that they can perform the essential functions of the job.] Examinations will address the functional requirements and environmental factors identified on the OF-178, Report of Medical Examination, or other approved form. Specific guidance includes:

(1) **Hearing Tests.** [ ] If the speech recognition in noise is abnormal, Human Resources [will] consider [ ] assigning the officer to duties that do not require speech recognition in noise. The officer may use hearing aide(s) to achieve adequate speech recognition which must be confirmed by testing with the hearing aid(s). [Generally, VA police officers are not authorized to wear hearing aids on duty.

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However, if hearing aid(s) is (are) required to achieve adequate speech recognition, the authority to use such aids while at work will be determined on a case by case basis.]

(2) **Psychological Evaluation.** At a minimum, the psychological evaluation [of police officer applicants] shall consist of a structured interview and standardized, objective psychological [evaluation]. Typically, at least two psychological [evaluations] will be administered. [ ] Both suitability and stability shall be assessed. [ ]

(3) **Cardiovascular Evaluation.** [Applicants] shall be evaluated for risk factors for cardiac disease. [If there are two or more cardiovascular risk factors the EOH provider should consider ordering an ETT.]

[ ]

e. **Annual Examinations.** On an annual basis, police officers, including police chiefs, will undergo the standard medical evaluation, including cardiovascular evaluation, psychological [evaluation] [ ]. [Psychological testing will only be conducted when there are questions raised concerning the psychological fitness of the police officer during the psychological evaluation.] EOH providers should consider ordering an exercise tolerance test (ETT) if the individual has two or more cardiovascular risk factors. [ ] The ETT should be repeated every 5 years for those with significant risk factors but no established cardiovascular disease or for those who are asymptomatic after coronary artery bypass graft and; every 2 years for others with established cardiovascular disease (i.e. with well-controlled angina, status post myocardial infarction, angioplasty or stent). Employees [must complete an] annual examination. Prior to undergoing the annual examination, the employee must sign an authorization to release information form [(VA Form 10-5345)] and be made aware that results of the examination may be shared with Human Resources Management or others with a need to know [in an effort to continue the mission of the Department]. Failure to participate in the annual examination or to sign the authorization form [(VA Form 10-5345)] may result in disciplinary action, including removal from employment with the Department.

#### **4. BOILER PLANT OPERATORS**

a. **Criteria.** [ ] [B]oiler plant operators shall undergo pre-placement and annual medical evaluations to determine their ability to safely perform heavy work in a hot, noisy, and potentially confined or elevated environment. After a risk assessment of the job hazards, and potential exposure, appropriate medical surveillance such as respiratory protection, hearing conservation, heat stress, and asbestos should be performed.

b. **Purpose/Scope.** The goal of medical examinations for boiler plant operators is to assure that there are no medical contraindications to performing the essential functions of their job. [ ]

(1) Assure the ability to perform the essential functions of boiler plant activities safely;

(2) Decrease the risks of work in isolated, hot, noisy, confined or elevated environments, and around hazardous materials; and

(3) Ensure physical fitness and ongoing ability to perform specialized boiler plant duties.

[ ]

[c.] **Annual Examinations.**

(1) All boiler plant operators must have annual physical examinations to ensure physical fitness to perform the assigned duties of the job. [ ]

(2) Other testing and evaluations such as pulmonary function studies or laboratory testing may be necessary for participation in specific medical surveillance programs. The [employee] has the right to refuse to participate in a routine medical surveillance program, however, they may not refuse to participate in the annual boiler plant operator physical.

(3) Prior to undergoing the annual examination, the employee must sign an authorization to release information form [(VA Form 10-5345)] and be made aware that results of the examination may be shared with Human Resources Management or others with a need to know [in an effort to continue the mission of the Department]. Failure to participate in the annual examination or to sign the authorization form [(VA Form 10-5345)] may result in disciplinary action, including removal from employment with the Department.



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EMPLOYEE OCCUPATIONAL HEALTH SERVICE

PART III. PHYSICAL STANDARDS BOARD

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**EMPLOYEE OCCUPATIONAL HEALTH SERVICE****PART III. PHYSICAL STANDARDS BOARD**

**1. COVERAGE.** The provisions of this part apply to [title 38] employees appointed under the authority of 38 U.S.C. [7401(1), 7405, and 7406, and title 38 hybrid employees appointed under 38 U.S.C. 7401(3) and 7405 who have medical standards or physical requirements (see paragraph 3, Part II of this handbook)].

**2. RESPONSIBILITIES.** Physical Standards Boards act for the Under Secretary for Health. The Boards are responsible for determining the physical, cognitive, and emotional fitness, and for recommending action based on examination findings. A Board's findings cannot be changed or modified except by the Board itself. A Board may recommend acceptance or rejection of [ ] [an] employee for [ ] continued employment for physical, cognitive, and/or emotional reasons.

**3. APPROVAL.** The Under Secretary for Health or designee will approve membership of Physical Standards Boards in Central Office. Health care facility directors or equivalent will approve membership of Boards at their respective facilities.

**4. MEMBERSHIP.** A Physical Standards Board will consist of a minimum of three physicians with appropriate professional expertise to make a fitness determination. However, when an unusual dental problem is under consideration, one physician will be replaced by a dentist. A physician will be chairperson. Persons in a position to prejudice the action of the Board may not serve as members of the Board conducting the review. The Human Resources Management Officer, or a designee, will be present to serve the Board as a technical advisor. Wherever the term "Physical Standards Board" is used in this handbook, it will refer to a Board with membership as described in this paragraph. [ ] All Board members must complete Privacy Act training for clinicians.

**5. PROCESS FOR QUESTIONABLE PHYSICAL FITNESS**

a. When the results of [a special physical] examination places into question the employee's ability to perform the essential elements of the job: the EOH physician will notify the Human Resources Management Officer[.] [Human Resources] will coordinate the convening of a Physical Standards Board for the facility director and the Chief of Staff for determination of the ability of the person to meet the requirements of the job. The Chief of Staff's Office will be permitted adequate opportunity for comment or recommendation on the findings of the Board. The Board will render its opinion as to whether or not the individual examined can perform the required essential functions of his/her job without hazard to VA beneficiaries, employees or self.

b. As part of health care operations, EOH may release the individual medical records to the Professional Standards Board for evaluating the abilities of a title 38 employee whether they were obtained for the purposes of evaluating the employee or if they were known to exist, when the records are needed to evaluate the provider's professional qualifications and performance (45 CFR 164.501, 164.506). Where the purpose is to assess an employee's physical qualifications or physical ability to perform, disclosure requires the employee's signed authorization to release information form.

**NOTE:** *Under 45 CFR 164.501, the definition of health care operations includes "reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities."*

c. After deliberations, the Physical Standards Board will prepare its findings on Board Action VA Form 10-2543. The Board will submit its report to the appropriate officials named in paragraphs 6 through 8 below, through channels, for necessary action. If the Board determines a person to be physically, cognitively and/or emotionally incapable of performing the duties of the assignment the following courses of action may be taken:

[ ]

[(1)] In some instances an individual who would not ordinarily be considered for continuing employment may be able to render valuable service to VA within that individual's physical limitations. The Board must be satisfied that the examinee can perform the required essential functions of a job reassignment with reasonable accommodation.

[(2)] [ ] [I]f the nature of the physical condition is one that may be corrected by medical treatment, sick leave, annual leave, and/or leave without pay may be granted, as appropriate.

[(3)] If retention of an employee is not considered to be in the best interest of VA, action will be taken to separate the employee for disability or disability retirement as appropriate. When effecting medical separations based on the recommendation of a Physical Standards Board all agency reasonable accommodation obligations and requirements must be adhered to prior to effecting the separation action. (For policies and procedures related to disability separations, see part VI of VA Handbook 5021. For agency reasonable accommodation obligations and requirements see VA Directive 5975.1)

d. All records generated as a result of the Physical Standards Board will be maintained in the appropriate system of records following disposition and related action with board review. [ ] If a major adverse action results based on the findings of a Physical Standards Board, a copy of the board action form should be kept in the evidence file maintained by the servicing Human Resources Office.

**6. UNDER SECRETARY FOR HEALTH.** The Under Secretary for Health, or designee, acts on findings of Physical Standards Boards and physical examination findings involving personnel employed in Central Office.

**7. CHIEF PATIENT CARE SERVICES OFFICER.** This individual acts on Physical Standards Board findings resulting from special examinations involving:

- a. [Title 38] [h]ealth care facility directors;
- b. Chiefs of staff at facilities having a director who is not a physician; and
- c. Network Chief Medical Officers.

**8. HEALTH CARE FACILITY DIRECTORS.** These individuals act on Physical Standards Board findings when required for [employees except those in paragraph 7.]

[ ]

[ ]



EMPLOYEE OCCUPATIONAL HEALTH SERVICE

PART IV. HEALTH MAINTENANCE PROGRAMS,  
EXAMINATIONS AND VACCINATIONS

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**EMPLOYEE OCCUPATIONAL HEALTH SERVICE****PART IV. HEALTH MAINTENANCE PROGRAMS,  
EXAMINATIONS AND VACCINATIONS****1. HEALTH [MAINTENANCE PROGRAMS]**

a. **Extent of Program.** VA provides health promotion evaluations on a voluntary basis for all employees as defined in Appendix I-A of this handbook in support of healthier Federal workers. Other aspects of the health promotion/disease prevention program are described in part 1, paragraph 6, of this handbook.

**b. Purpose of the Evaluations**

(1) The health promotion evaluations are a benefit offered to employees. The evaluations follow principles defined by the United States Preventive Services Task Force's Guide to Clinical Preventive Services and the CDC Community Guide to Preventive Services. These may include but are not limited to:

(a) Screening for tobacco usage, counseling, and over-the-counter nicotine replacement therapy;

1. VHA Directive 2010-041, Tobacco Cessation, dated September 16, 2010, [or subsequent issue] was implemented to support employees who are trying to stop usage of tobacco products.

2. Federal Employee Health Benefits (FEHB) as part of their prevention program also initiated coverage for tobacco cessation to benefit holders effective January 2011.

(b) Blood pressure screening;

(c) Fecal Occult BT, age 50 years and above;

(d) Screening for diabetes;

(e) Lipid profile;

(f) Acetylsalicylic acid (ASA) recommendations;

(g) Calculation of Body Mass Index (BMI) and or abdominal girth;

(h) Alcohol Use and Depression Screening;

(i) Health Risk Appraisal;

(2) The purpose of the periodic evaluations is to maintain all employees at their productive best. The frequency of these screening evaluations shall follow the most current United States Preventive Services Task Force's Guide to Clinical Preventive Services.

**c. Action on Evaluation Findings**

(1) The employee will be told prior to the evaluation that the results will be kept confidential unless conditions are discovered which are considered hazardous to the health and well-being of self and others. When such conditions are discovered, management will be informed in a way that respects medical privacy (HIPAA). The report will clarify that the individual poses a threat or hazard to others.

(2) The EOH provider will discuss the findings with the employee. Employees will be notified in writing of any abnormalities uncovered which they should bring to the attention of their private provider for follow-up or treatment.

(3) The report of the evaluations will be filed in the Employee Medical Folder (EMF).

**d. Payment of Health Promotion Evaluation Costs.** The cost of evaluations conducted under this program at a VA facility will be borne by the Department.

**2. VACCINATIONS**

a. [Each administration will determine, based on CDC recommendations, public safety, and occupational exposures to infectious diseases and applicable regulations which vaccinations will be offered to employees.] [ ]

[ ]

b. **Adverse Vaccination Events.** When adverse vaccination events are identified, employees shall report the event to the EOH provider. The EOH provider shall complete a VA Adverse Drug Evaluation report, and for VHA, the event shall be captured in the Employee Occupational Health Record-keeping System. The employee may elect follow-up care from their primary care provider and may file a workers' compensation claim.

**3. INFECTIOUS DISEASE MANAGEMENT**

**a. Tuberculosis Program**

(1) **Coverage/ Scope.** This program includes all healthcare personnel as defined in Appendix I-A, who are assigned to work in a health care facility.

(2) Facilities will conduct a risk assessment to determine the level of risk for tuberculosis. They will implement the appropriate level of tuberculosis surveillance with appropriate tuberculosis screening frequencies based on CDC guidance.

(3) **Tuberculosis Screening**

(a) All covered employees shall have a pre-placement assessment for tuberculosis according to current CDC/American Thoracic Society (ATS) guidelines. A chest x-ray is not a substitute for tuberculin skin testing or a blood assay for tuberculosis in individuals with a negative history of tuberculosis disease or latent tuberculosis.

(b) Some categories of patients, such as Homeless Program (Outreach) employees may require annual tuberculosis screening and tuberculosis surveillance even if the hospital as a whole is deemed to be at low risk.

(c) The EOH provider shall review all available tests, and where applicable order a chest x-ray and review the results prior to commencement of duty.

(d) Pre-placement employees suspected of or found to have active tuberculosis will have their commencement of duty postponed until it is determined they are no longer infectious according to current CDC/ATS guidelines.

(e) Periodic tuberculosis surveillance will be conducted in accordance with current CDC recommendations [ ].

(4) **Exposure to Tuberculosis.** Employees exposed to patients or other employees with active tuberculosis will undergo [ ] [screening according to current CDC guidelines.]

(a) If an employee develops a positive skin test or positive blood assay test or a change in his/her clinical condition suggestive of tuberculosis, current CDC guidelines shall be followed to rule out infectious tuberculosis.

(b) If any employee is identified with a change in their tuberculosis status, further planning shall be conducted in collaboration with infection control, infectious disease, hospital epidemiology and local Public Health agencies.

(c) Such cases of conversion are to be included on the OSHA log.

(5) **Records.** All employee records pertaining to tuberculosis, including all chest x-rays, shall be retained with the employee's EMF for the duration of the employment plus 30 years following the OSHA mandates on medical record retention.

#### 4. MEDICAL SURVEILLANCE

a. All employees with potential exposure to hazardous conditions based on a risk assessment identified by the facility industrial hygienist/safety officers shall be included in a medical surveillance program. Those designations will trigger medical surveillance requirements, as defined in the OSHA standards, the National Institute of Occupational Safety and Health (NIOSH) standards, professional practice guidelines, and other professional societies, such as American National Standards Institute.

b. The frequency and content of the medical surveillance evaluations depend on the specific agent.

c. Occupational Health Registered Nurses (RN) as other licensed healthcare professionals under the Respiratory Standard (29 CFR 1910.134b.10) may conduct respirator evaluations if it is within their scope of practice. They may clear workers for respirator fit testing if there are no positive responses on the questionnaire. If there are positive responses to questions 1- 8 of the questionnaire, and when there is sufficient information to reach a reasonable and prudent nursing judgment related to the worker's ability to safely use a respirator without health limitations, RNs may clear workers for respirator fit

testing for filtering face piece respirators (such as the N-95). If there is not sufficient information to reach the necessary judgment of the worker's ability to safely use a respirator without limitations, the worker must be referred to a licensed independent practitioner (LIP) for further evaluation.

**APPENDIX A. SMOKING CESSATION BENEFIT FOR VHA EMPLOYEES**

**1. PURPOSE:** The Veterans Health Administration (VHA) has a program that provides free nicotine replacement therapy (NRT) over-the-counter (OTC) medications to VHA employees who seek assistance with quitting smoking as part of VHA's core preventive health mission.

**2. BACKGROUND**

a. Smoking remains the leading cause of preventable death and disease in the United States, despite the availability of effective and readily available interventions, such as NRT. *NOTE: NRT is a highly effective smoking cessation intervention and treatment with a well-proven safety record.* Given the health impacts of smoking, tobacco cessation counseling is an integral component of VHA's health promotion and disease prevention programs.

b. In 2008, the Centers for Disease Control and Prevention (CDC) noted an increase in health care expenditures and productivity losses associated with tobacco use. All types of tobacco are known to cause serious health impacts. Tobacco dependence is a chronic disease that often requires repeated intervention and multiple attempts to quit. Although 70 percent of smokers report trying to quit, only 40 percent report success with quitting smoking, and only about 20 percent of those who attempt to quit report use of medication or counseling to assist with quitting.

c. A recent review of NRT for smoking cessation concluded that NRTs increase the rate of cessation by 50-70 percent, regardless of the setting. NRT, in the forms of a nicotine patch, gum or lozenge, is the most commonly used smoking cessation medication. These medications have a long history of prescribed use with a well-documented safety record that has led to some NRT products being approved for OTC use (OTC refers to products being available without a prescription).

d. VHA is a national leader in health promotion and disease prevention. Providing free OTC NRT as part of ongoing smoking cessation efforts for employees, as a health promotion and disease prevention initiative, is consistent with VHA's central health care mission and goal of being an employer of choice. Providing OTC NRT makes additional assistance available to employees trying to quit tobacco use. This employee health initiative in smoking cessation is also moving ahead to decrease harmful exposures to secondhand smoke.

e. Given the efficacy of NRT in smoking cessation and noting its safety record, the smoking cessation benefit provides for OTC NRT to employees requesting NRT. Non-NRT and prescription-only NRT smoking cessation medications need to be prescribed by the employee's physician, as these medications require close follow-up and monitoring for adverse events.

f. A number of VA medical centers have successfully implemented policies to provide free OTC NRT for employees who are seeking assistance with quitting smoking. These include:

- (1) Providing free OTC NRT purchased by VA;
- (2) Providing OTC NRT through an outside vendor;

## PART IV

## APPENDIX A

- (3) Providing free OTC NRT through existing employee health clinics;
- (4) Providing free OTC NRT through existing facility tobacco cessation programs;
- (5) Providing vouchers for purchasing OTC NRT through VA canteens; and
- (6) Contracting with state or private telephone counseling quitlines for services, including OTC NRT.

g. The benefits of providing OTC NRT to employees, in recouped sick leave and improved role-modeling for employees, are substantial and far outweigh the cost (see Appendix B for relative cost on select brand patch, gum and lozenge medications, and prescribing guidelines in accordance with 2008 public Health Service Clinical Practice Guidelines and Pharmacy Benefits Management policy).

**3. POLICY.** In accordance with VHA Directive 2010-041, dated September 16, 2010, it is VHA policy to provide free OTC formulations of NRT in appropriate combinations of the nicotine patch, gum and lozenge to employees who are seeking assistance with quitting smoking as part of preventive health initiatives for employees. The original prescription may include refills for multiple courses as determined appropriate by the provider.

#### 4. RESPONSIBILITIES

a. **VISN Directors.** Each VISN Director is responsible for ensuring that VISN and facility policies comply with VHA policy regarding the provision of OTC forms of NRT to employees.

b. **Facility Directors.** Each facility Director is responsible for ensuring:

(1) A facility policy providing free OTC NRT is developed, published, and implemented and is consistent with VHA's established drug accountability procedures.

(2) The provision of free OTC NRT is incorporated into smoking cessation programs for employees as part of employee health promotion and disease prevention programs or existing smoking cessation services in the facility. Employees may obtain this free benefit by requesting prescription orders for OTC NRT from the Employee Health Office.

(3) That the Employee Health Office or other authorized provider (as defined in local facility policy) issues employee prescriptions for OTC NRT to be dispensed by VA Pharmacies.

(4) OTC NRT is made available to all VHA employees who are attempting to quit tobacco use.

(5) OTC NRT is free of charge or co-payment.

(6) OTC NRT is made available to any requesting employee at the worksite or is mailed to the employee's home.

APPENDIX B. PRESCRIBING GUIDELINES FOR  
NICOTINE REPLACEMENT THERAPY

	<b>Nicotine Transdermal Patch</b>	<b>Nicotine polacrilex gum</b>	<b>Nicotine polacrilex lozenge</b>
<b>Trade Name and Dose availability</b>	Nicoderm / Habitrol 21mg/14mg/7mg Nicotrol* 15mg/10mg/5mg	Nicorette Gum 2mg, 4mg	Commit Lozenge 2mg, 4mg
<b>Recommended Regimen</b>	High Dependence† 21mg x 4-6wks, then 14mg x 2wks, then 7mg x 2wks Low Dependence 14mg x 6-8wks, then 7mg x 2wks	High Dependence† 4mg q1-2hrs x6wks, then q2-4hrs x4wks, then q4-6hrs x2wks Low Dependence 2mg q1-2hrs x6wks then q2-4hrs x3wks then q4-6hrs x3wks  -No more than 24 pieces/24hrs	High Dependence† 4mg Low Dependence 2mg -Suck 1 lozenge q1-2hrs x6wks, then 1 q2-4hrs x3wks, then 1 q4-8hrs x3wks -No more than 20 lozenges/24hrs or 5 lozenges/6hrs
<b>Administration comments</b>	-Usually worn for 16 - 24hrs -Apply from neck to waist -Rotate sites -Takes 2-3d for effect after application of first patch	-Chew slowly (about 10 chews) until peppery taste then "park" between teeth and gums till taste dissipates. Repeat process on and off for 30mins/piece; rotate sites -can be used in combination with patch	-Allow lozenge to dissolve slowly over 20-30 minutes shifting in mouth occasionally. -Do not chew or swallow (increased risk of GI side effects) -can be used in combination with patch
<b>1-year Abstinence rates‡</b>	16-30% (dose dependent); Higher with combination therapy: 35%	20-25% Higher with combination therapy: 35%	15-20% Higher with combination therapy: 35%
<b>Time to Peak blood concentrations</b>	4-10hrs	15-30 mins	No data on time to peak concentration
<b>Absorption</b>	75-90%	30%	30%
<b>Advantages (+) and Disadvantages (-)</b>	(+)best adherence; easy to use; consistent rate of exposure; unobtrusive (-)less effective for cravings; difficult to control titration; absorption increased at elevated temperatures	(+) helps prevent sudden urges; can titrate to adjust for cravings; oral substitute for cigarettes (-)difficult for those with poor dentition or dentures; must learn proper chewing technique; must abstain from drinking/eating during gum use	(+)easy to use; discreet; higher immediate levels; can titrate to adjust for cravings; reduces self-reported withdrawal symptoms (-)must abstain from drinking/eating during lozenge use
<b>Adverse Effects</b>	-sleep disturbances -local skin irritation -bone pain -headache -nausea	-local mouth irritation -jaw pain -hiccups -dyspepsia -rhinitis -nausea	-local mouth irritation/tingling -heartburn, indigestion, nausea (if chewed) -headache -nausea, diarrhea -flatulence
<b>VA National Formulary Restrictions</b>	None	None	None
<b>VA Cost   and Average cost per day based on above regimens (avg)</b>	All strengths: \$19.04 / 14patches \$1.36/patch avg \$1.36/day	2mg gum: \$14.49/100 pieces \$0.15/ piece avg \$1.50/day 4mg gum \$17.49/100 pieces \$0.18 /piece avg \$1.80/day	2mg or 4mg lozenge: \$40.03/108 lozenges \$0.37/lozenge avg \$3.30/day
<b>Contraindications /Relative Contraindications</b>	<b>Relative Contraindications:</b> -Hypersensitivity -Pregnancy: Category D -Use within 14 days post MI, or serious or worsening angina -Patients should be advised not to smoke while on nicotine replacement therapy		

\*remove Nicotrol patch at bedtime

†In general, greater than 20 cigarettes per day or use of first cigarette within 30 minutes of awakening is considered high dependence

‡all NRTs have been shown to double 6-12month abstinence rates compared to placebo

|| cost based on FSS or BIG4 pricing as listed on PBM website (<http://www.pbm.va.gov/PBM/prices.htm>)

**NOTE:** Two additional prescription products, a nicotine inhaler and nicotine nasal spray, are also FDA approved for nicotine replacement therapy however these products are not available on the VA National Formulary. For more information on these products, visit the American Lung Association Smoking Cessation Support website at: <http://www.lungusa.org/site/pp.asp?c=dvLUK900E&b=33566>



EMPLOYEE OCCUPATIONAL HEALTH SERVICE

PART V. RECORDS AND FORMS

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**EMPLOYEE OCCUPATIONAL HEALTH SERVICE****PART V. RECORDS AND FORMS****1. HEALTH RECORDS**

a. As VA moves from a paper to an electronic record-keeping system, the numbered forms in use may be replaced by approved equivalent electronic forms and documentation may be accomplished in an electronic health record. For VHA this includes the Employee Occupational Health Record-keeping System (OHRS). [ ]

b. [The confidentiality of occupational health records of employees are protected by the Privacy Act of 1974, Title 5 U.S.C. section 552a, the Federal Employee's Compensation Act (FECA), 5 U.S.C. Chapter 81 and Title 20 Code of Federal Regulations (CFR) Part 10 Subpart A, Privacy Procedures for Personnel Records in 5 CFR Parts 293 and 297, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, 45 CFR Parts 160 and 164, the Genetic Information Nondiscrimination Act (GINA), 29 CFR Parts 1630 and 1635, and the Americans With Disabilities Act (ADA). The records are maintained in Employee Medical File System of Records (OPM/GOVT-10) for Title 5 employees and the Employee Medical File System Records (08VA05) for Title 38 employees, which authorizes various routine use disclosures without employee's written release of information or authorization.]

[c. The employee medical file (EMF) will be maintained in accordance with Office of Personnel Management and VA procedures. Medical records will be retained in EOH where they are under the control of EOH staff under double lock protections or if an electronic health record with the same level of protection. Otherwise, records must be kept under double lock controlled by the HRM office or, if electronic health record with the same level of protection. If the EMF is an electronic health record, the EMF must be protected by restricted access procedures and audit trails according to VA policy].

(1) An EMF will be prepared by the Human Resources Management Office for each employee who enters on duty and forwarded to EOH. The EOH staff will record the dates and results of all medical examinations, tests and vaccinations, as well as all treatments for illnesses and injuries. EMFs related to confidential matters such as mental illness, sickle cell disease and HIV testing must be kept in a sealed confidential file or equivalent electronic format. [Occupational health records and personal health information must be kept separately in the employee medical folder].

(2) Employees and applicants have a right to review their Employee Medical Folder in compliance with the Privacy Act and [for records maintained in VHA facilities, the HIPAA Privacy Rule]. [Employees and applicants] may request copies of their Employee Medical Folder [using VA Form 10-5345a, Individual's Request For a Copy of Their Own Health Information.] A copy of the individual's medical folder will be provided within the specified time frame in compliance with Negotiated Agreements, as well as the Privacy Act and the HIPAA Privacy Rule, after receipt of [the VA Form 10-5345a] by the employee.

(3) All requests for and disclosures of health information must be documented following current VA requirements [and VHA policy].



(4) Employees have a right to ask for their health record to be modified. Amendments to the Employee Medical Folder will follow current VA, [VHA] and OPM requirements.

[d.] Employee occupational health is the designated custodian of record for the EMF. Human Resources' primary function is to assure appropriate restriction of access under the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule.

[e.] When employees transfer to another agency [ ] their permanent medical records will be transferred [through Human Resources] in accordance with [5 CFR 293.510 and 5 CFR 293.306]. The [employee's medical file must be transferred to the gaining agency at the same time as the employee's OPF]. The [EMF] will be screened to assure that permanent medical records, as prescribed in 5 CFR 293, subpart E are placed in a sealed envelope and included in the personnel folder prior to transfer.

Other medical records will be retained per OSHA standards and disposed of in accordance with the applicable records control schedule. Employees may, upon written request, have copies of these temporary medical records sent to their gaining agency or personal physician.

[f.] If an employee transfers to another VA facility, [upon transfer the employee medical folder shall be sent to the gaining VA facility through Human Resources in accordance with 5 CFR 293.306] [ ]. [The employee's medical file will be screened by EOH to ensure that permanent medical records, as prescribed in 5 CFR 293, subpart E are placed in a sealed envelope and included in the personnel folder prior to transfer. Other medical records will be retained per OSHA standards and disposed of in accordance with the applicable records control schedule. Employees may, upon written request, have copies of these temporary medical records sent to their gaining agency or personal physician.] Electronic access will be provided to the gaining facility for review prior to acceptance of a transfer if OHRS is utilized.

[g. When employees separate from Federal service, their permanent medical records will be forwarded to the National Personnel Records Center (NPRC) through Human Resources along with the Official Personnel Folder using the instructions in 5 CFR 293.307. The employee's medical file will be screened by EOH to ensure that permanent medical records, as prescribed in 5 CFR 293, subpart E are placed in a sealed envelope and included in the personnel folder prior to transfer. Other medical records will be retained per OSHA standards and disposed of in accordance with the applicable records control schedule. Employee medical folders must be retained by the losing agency for 30 working days after separation, and may be retained for an additional 60 days where administratively necessary].

## **2. FORMS**

[a.] The responsible Human Resources Officer will provide the examining occupational health provider with the position description [or functional statement] and the essential functions of the job on the OF 178 or other approved form [for all pre-placement and special physical examinations]. If the examination is completed outside of EOH the completed form shall be returned to the EOH provider for review and concurrence. [If the special physical examination results in a question regarding the employee's fitness, the OF-178 will be referred to a Physical Standards Board for evaluation.]

[(1)] Physical examinations of applicants separated from the U.S. Armed Forces within 90 days of appointment are also acceptable if they address the criteria needed for the position for which they are being hired. Certified copies of such examinations are acceptable [and will be placed in the employee's EMF].

[(2)] VA Form 5-3831b, Report of Employee's Emergency Treatment, or equivalent, will be used when, in the opinion of the EOH provider, it is necessary to inform a supervisor concerning an employee's recommended duty status.

[(3)] VA Form 5-3831c, Daily Report of Employees' Injuries, or an equivalent electronic record may be used to inform the Safety Officer, the Human Resources Management Officer and Workers' Compensation Specialist of a work-related illness or injury.

[(4)] The Department of Labor form CA17, Duty Status Report, shall be used to inform an employee's supervisor about an employee's duty status for all work-related injuries and illnesses.



[ ]

EMPLOYEE OCCUPATIONAL HEALTH SERVICE

PART VI. MANAGEMENT OF WORK-RELATED INJURIES AND ILLNESSES

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**EMPLOYEE OCCUPATIONAL HEALTH SERVICE****PART VI. MANAGEMENT OF WORK-RELATED INJURIES AND ILLNESSES**

**1. PURPOSE.** This part contains policy on the role of EOH providers in the management of work-related injuries and illnesses, if adjudicated by the Office of Workers' Compensation Program (OWCP). This section complements and supports VA Handbook 5810, the governing policy for Workers' Compensation matters in VA.

**2. POLICY.** It is the policy of VA that:

a. All VA employees are [entitled to apply for and receive benefits for which they are entitled under] the Federal Employee Compensation Act [(FECA)] [ ].

b. EOH staff work collaboratively with Safety Officers and Workers' Compensation [ ] [Program (WCP) personnel] to ensure [emergency diagnosis and first treatment when elected by the injured worker] [ ], proper documentation of on-the-job injuries and illnesses, [ ] and development of appropriate intervention strategies to prevent future events through safety investigations and Accident Review Boards (see VHA Handbook 7701).

c. [When the injured worker elects EOH as the provider of choice, EOH staff provide appropriate treatment and referral of injured workers; and implement early return-to-work strategies. [ ]

d. EOH staff participate in case management of disputed claims or questionable medical reports [at the request of WCP personnel. WCP personnel must redact any Personally Identifiable Information (PII) before providing EOH with worker's compensation case file documentation.]

e. The EOH staff in collaboration with Safety Officers and/or Industrial Hygienists evaluate the workplace environment when an [injured worker] complains of an illness which may be related to his or her work environment, often after using appropriate clinical documentation strategies to link a disease to the workplace. This linkage serves only to document a link, to justify workplace interventions, and to protect patients and staff but does not justify clinical treatment without adjudication by the Department of Labor.

**3. RESPONSIBILITIES**

a. The [injured worker] is responsible for [submitting medical reports and duty status]. [It is strongly encouraged that medical documentation address all] 12 critical elements as required by 20 CFR 10.330. [When] VHA clinicians [are the treating provider] all 12 elements [must be addressed] in their reports.

b. EOH [may provide emergency diagnosis and first treatment to all VA employees. When the injured worker elects EOH as the provider of choice, EOH providers treat and follow-up on the medical conditions until the condition is resolved or the injured worker is approved by OWCP to change their provider of choice]. **NOTE:** *[Injured workers] have the right to elect their own treatment provider; however, where EOH services are provided in-house, such programs should strive to be providers of choice.*



c. The EOH provider shall evaluate staff with potential [occupational exposure resulting in disease or illness to ensure that a safe work environment exists] work-related illnesses to determine if a causal relationship exists and to collaborate with safety, industrial hygiene, and engineering services to mitigate the hazard, if possible, and with the treating physician to support treatment, where appropriate.

**NOTE:** *Although [injured workers] may not be treated in EOHS for work-related illnesses until the case is accepted by the OWCP and the patient elects EOHS as the treating physician, EOH staff have the responsibility to ensure a safe work environment.*

d. The EOH provider [,when elected as an injured worker’s provider of choice,] shall work closely with [WCP personnel] and the supervisor to coordinate the care of an injured [worker] with the goal of bringing the employee back to work.

[(1)] EOH providers recommend treatment plans, duty status (including any restrictions or time off) and assist supervisors in regard to restrictions when those are indicated. The EOH provider does not have the authority to send an [injured worker] home.

[(2)] The EOH provider will collaborate with the [injured worker’s] supervisor in return to work clarifications defining what the injured [worker] is able to do, comparing that with elements of the job description, and clearing for specific elements or restrictions.

[e.] [WCP personnel provide] EOH with the [DOL] [F]orm CA16, Authorization for [*Medical Examination And/Or Treatment*], when an [injured worker] claims a [traumatic] injury [, elects EOH as the provider of choice, and the third visit is within seven days from the date of injury]. It is the responsibility of the EOH provider to complete the physician’s portion [sign, date and return the DOL Form CA-16] [ ] to [WCP personnel] within 48 hours after [the] appointment with the injured [worker].

[f. When elected as the injured worker’s provider of choice, the EOH provider participates in the billing process in collaboration with WCP personnel and the facility Medical Care Cost Recovery staff.]

[(1)] The facility must register with Affiliated Computer Services, Inc. (ACS) so that EOH may bill DOL for services beyond the second visit.]

[(2)] EOH must bill for services provided to the work-related injured worker beginning with the third visit.]

[ ]

**NOTE:** *The [Department of Labor, Office of Workers Compensation Programs] is the only organization that adjudicates a claim and is the final arbiter.*

#### **4. PROVISION OF CARE**

a. Occupational and environmental injuries and illnesses should be [evaluated] promptly. EOH providers are uniquely qualified to [evaluate] occupational illnesses and injuries because of their knowledge of the workplace. The EOH provider can objectively resolve issues about [the safety of the work environment]. [ ] When ancillary services are not available within VHA, or when the next appointment cannot be scheduled within the time frame requested by the clinic, the facility shall make consultation arrangements to send the [injured worker] to a local facility.

b. The role of the EOH provider is to establish the diagnosis, determine causal relationship, provide treatment, consult with specialists when necessary and determine when the [injured worker] is able to return to work physically and mentally.



c. Advanced Practice Registered Nurses (APRN) and physician assistants (PA) may examine and treat [injured workers] within their scope of practice. The OWCP will not accept NPs or PAs as treatment providers without the co-signature of a physician. Therefore, all clinical notes shall be co-signed by the designated occupational health physician.

d. The EOH provider shall document duty status restrictions on [DOL] [F]orm CA-17, [*Duty Status Report*]. The injured [worker's] supervisor shall complete the left-hand side of this form with the actual activities which the [injured worker] does in his/her position. The treating physician completes the right-hand side of the document with the work capacity of the individual for each element.

e. The EOH provider shall complete a medical report for all OWCP cases treated in the facility EOH Service. This report shall include:

- (1) Dates of examination and treatment;
- (2) History given by the employee;
- (3) Physical findings;
- (4) Results of diagnostic tests;
- (5) Diagnosis;
- (6) Course of treatment;
- (7) A description of any other conditions found but not due to the claimed injury;
- (8) The treatment given or recommended for the claimed injury;
- (9) The physician's opinion, with medical reasons, as to causal relationship between the diagnosed condition(s) and the factors or conditions of the employment;
- (10) The extent of disability affecting the employee's ability to work due to the injury;
- (11) The prognosis for recovery; and
- (12) All other material findings.

f. If specialty services are required for the treatment of a work-related injury or illness and the services are not available at the facility, the EOH provider should send a consult to an outside provider rather than refer the injured worker to outside medical care.

g. Once the [injured worker] has elected EOH as the treating provider for the traumatic injury or illness any change requires written permission from the OWCP.

## 5. -DEFINITIONS

a. **Traumatic Injury.** A traumatic injury, as defined by the OWCP, is a wound or other condition of the body caused by external force. It must be identifiable by date and time, member of body affected and it must be caused by a specific event or incident or series of events or incidents within a single day or work shift. These claims are filed on [DOL] Form CA-1, [*Federal Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation*].

b. **Occupational Illness.** The OWCP defines an occupational illness or disease as a condition produced in the work environment over a period longer than one workday or shift. This may result from systemic infection, repeated stress or strain, exposure to toxins, poisons or fumes; or other continuing condition(s) of the work environment. Occupational Illness claims are filed on DOL [F]orm CA-2, [Notice of Occupational Disease and Claim for Compensation].

c. **Physician.** The FECA definition of a physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, osteopathic practitioners and chiropractors within the scope of their practice as defined by state law. Chiropractors are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist.

OCCUPATIONAL HEALTH SERVICES

PART VII. DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND  
STALKING IN THE WORKPLACE

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## PART VII. DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING IN THE WORKPLACE

**1. PURPOSE.** This part provides mandatory procedures to address employees' experience of domestic violence/intimate partner violence (DV/IPV), sexual assault (SA), and stalking in the workplace.

### 2. BACKGROUND

a. DV/IPV, SA, and stalking are serious problems that can affect individuals, families, communities, and workplaces. These problems affect people of all backgrounds, regardless of race, income, religion, sexual orientation, gender identity, age, disability, etc. Domestic violence (DV) refers broadly to any violence that occurs in the home. The term "intimate partner violence" (IPV) describes physical, sexual, or psychological harm or stalking behavior by a current or former partner that occurs on a continuum of frequency and severity ranging from emotional abuse to chronic severe battering or even death. It can occur in heterosexual or same-sex relationships and does not require sexual intimacy or cohabitation. Sexual assault includes any sexual act or behavior that is perpetrated when someone does not or cannot consent. Stalking occurs when a person frequently or continuously contacts, follows, talks to, or sends things to another person when the recipient wishes the behavior to stop.

b. This handbook approaches DV/IPV with a recognition that the use or experience of violence does not define the individual. As such, VA has adopted person-first language using terms such as "individuals who use violence" rather than "abuser" or "batterer" and "individuals who experience violence" rather than "victim" or "survivor."

c. DV/IPV, SA, and stalking may cause emotional trauma and physical injury. In addition, the social stigma associated with these problems and the reality that many individuals experiencing these problems often have an on-going relationship with the offender can make it more difficult for individuals who are experiencing these problems to report. Individuals often continue to be in danger after reaching out for help, reporting the crime, during the investigation process, and during prosecution of the cases. As a result, appropriate responses in these cases can save lives, prevent future violence, and promote recovery.

d. The effects of DV/IPV, SA, and stalking may affect the workplace in numerous ways, introducing significant costs and safety concerns in the workplace. VA will promote the health and safety of its employees by acting to prevent DV/IPV, SA, and stalking within the workplace and by providing support and assistance to employees whose working lives are affected by such violence.

**3. POLICY.** It is the policy of VA:

a. To enhance workplace awareness and capacity to create a supportive, safe work environment for individuals who are experiencing violence and their fellow employees.

b. To institutionalize responsive policies and procedures to assist employees who are impacted by violence, including the provision of training on this policy to employees and management.

c. To provide immediate assistance to individuals who are experiencing violence, especially information on referrals to community resources. The VA is committed to making supportive resources available to employees who disclose incidents of DV/IPV, SA, and stalking through supervisors, designated persons in human resources offices, or other persons designated by the Department, building safety/security and the Employee Assistance Program (EAP).

d. To provide assistance to and/or take disciplinary action against employees who have committed acts of DV/IPV, SA or stalking in the workplace.

**4. RESPONSIBILITIES.** Preventing and responding to actual or potential incidents of DV/IPV, SA, or stalking in the workplace is a responsibility of every VA employee. **NOTE:** *38 CFR 1.204 requires any serious crime (e.g. homicide, armed robbery, rape, and aggravated assault) committed against a person on VA premises to be reported to the Office of the Inspector General (OIG).*

a. **Under Secretaries, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries, and field facility Directors.** Under Secretaries, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries, and field facility Directors are responsible for the implementation of this policy within the organizations over which they have jurisdiction. These officials will:

(1) Assign responsibility to a primary point of contact (POC) within their Administration, Staff Office or facility for policy implementation, monitoring, evaluating, and reporting on progress. The assigned POC will submit the Annual Review Report (see Appendix A) to the Worklife and Benefits Service (058) upon request via email to [VACO.058.WL&B.OHRM@va.gov](mailto:VACO.058.WL&B.OHRM@va.gov). The subject line for this report should be "Annual Review Report." The Worklife and Benefits Service will consolidate the data and submit the VA report to the Office of Personnel Management (OPM).

(2) Establish a local DV/IPV, SA, and Stalking Incident Response Team to develop reporting procedures that provide an effective, confidential, and accessible way for employees to report incidents and concerns. Team members will be trained on addressing the needs of individuals experiencing DV/IPV, SA, and stalking. At a minimum, the team should include representatives from VA Police, human resources, occupational health, labor partners and EAP. Facilities shall develop plans that specify who should respond to incidents depending on the nature of the offense. To determine the threat level, team members may utilize the assessment tool in Appendix B.

b. **Managers and Supervisors.** Managers and supervisors will:

(1) Participate in training on DV/IPV, SA, and stalking. [The "Domestic Violence/Intimate Partner Violence (DV/IPV), Sexual Assault (SA), Stalking in the Workplace" TMS course# 3940800, offered in the Talent Management System (TMS) satisfies this requirement.]

(2) Maintain confidentiality and be responsive when an employee who is experiencing DV/IPV, SA, or stalking asks for help. Immediately contact the human resources staff, security, and/or the EAP for assistance;

(3) Be aware of physical or behavioral changes in employees, and consult the human resources staff, security, and/or EAP for advice. Do not attempt to diagnose the employee;



- (4) Work with the employee, human resources staff, the EAP, and security, as appropriate to assess the

need for and to assist with developing a workplace safety plan (see Appendix D);

(5) In coordination with the DV/IPV, SA and stalking incident response team, determine if employees or the workplace are at risk and take appropriate measures to secure the workplace and provide resources as appropriate. However, managers and supervisors have no authority or control outside of the workplace and should refer the employee to outside resources for assistance with his or her personal safety plan;

(6) In consultation with human resources staff, adjust employee's work schedule and/or grant leave if the employee needs to take time off for medical assistance, legal assistance, court appearances, counseling, relocation, or to make other necessary arrangements to create a safe situation;

(7) Per the employee's request, maintain communication with the employee during the employee's absence; and maintain confidentiality regarding the employee's whereabouts;

(8) After consultation with human resources staff, take any appropriate corrective disciplinary action against employees who: misuse VA resources to perpetrate DV/IPV, SA, and/or stalking in the workplace or while conducting VA business; or are arrested, convicted or issued a permanent injunction as a result of DV/IPV, SA, and/or stalking where the employee's actions prevent, or impact the employee's ability to perform the duties of his/her position;

(9) In consultation with VA Police and/or appropriate security and law enforcement, honor all civil protection or restraining orders on behalf of VA.

c. **Office of Human Resources Management (OHRM) Worklife and Benefits Service.** The Worklife and Benefits Service will:

(1) Advise field POCs on the submission of annual statistical reports, and prepare consolidated reports on Department DV/IPV, SA, and stalking for submission to the Office of Personnel Management (OPM) as required; and

(2) Provide advice and guidance to management officials regarding DV, SA, stalking, employee training and reporting procedures;

(3) Prepare an annual summary report for leadership and stakeholders identifying areas of progress and needed improvement, short and long term goals, and identification of measures for evaluating program effectiveness.

(4) Obtain concept approval for the training plan through the VA Enterprise Training Advisory Board's Mandatory Training Subcommittee prior to developing content, and submit training final review to the subcommittee as a VA-wide requirement.

**d. Human Resources Officers.** Local Human Resources Offices will:

- (1) Participate in DV/IPV, SA, and stalking training for VA supervisors and employees;
- (2) Participate on the local DV/IPV, SA, and Stalking Incident Response Team;
- (3) Provide technical expertise and consultation to help supervisors determine what course of administrative action is most appropriate in a specific DV/IPV, SA and/or stalking incident;
- (4) Be a resource to employees, managers and supervisors in addressing DV/IPV, SA and/or stalking situations. This includes working with employees, the local security office, the Office of General Counsel (OGC), EAP, local law enforcement, and community domestic violence programs, if necessary, to develop a workplace safety plan (see Appendix D) to minimize the risk to the individual experiencing violence, other employees, and VA customers;
- (5) Work with supervisors and managers to grant leave, adjust work schedules, or attempt to find continued employment for employees who are victims of domestic violence, if possible;
- (6) Maintain the confidentiality of incident circumstances and other referrals under this part to the extent permitted by law;
- (7) When appropriate, help supervisors determine appropriate workplace flexibilities; and
- (8) Determine whether sufficient evidence exists to support taking a disciplinary action once the investigation of any misconduct is complete for VA employees who are perpetrating DV/IPV, SA and/or stalking.

**e. Building Safety and Security.** Maintaining a secure and physically safe workplace is part of any good strategy for preventing workplace violence of any kind. VA uses a variety of security measures to help ensure safety. Qualified security office personnel can provide a valuable first line of defense for employees who are pursued or stalked. Locations with no security forces on site are encouraged to establish contact with their EAP representative, local law enforcement, and local domestic violence programs to develop an appropriate security response plan. In coordination with the individual experiencing violence, qualified security personnel will:

- (1) Develop a workplace safety plan that includes and respects the affected employee;
- (2) Maintain copies of restraining orders and photos of the perpetrator in all appropriate locations in accordance with the laws of the state or jurisdiction and in the court that issued the order;
- (3) Refer victims to appropriate state and local law enforcement and other appropriate resources.

**f. Collective Bargaining.** VA management will comply with national collective bargaining agreements.

g. **Employee Assistance Program.** EAPs can be strategic partners and valuable resources in addressing DV/IPV, SA, and stalking as a workplace issue. The EAP should support facility supervisors in their response to the needs of employees affected by DV/IPV, SA, and stalking. To the extent possible, the EAP should work in conjunction with supervisors and/or VA Police/building security, with the employee's permission, to plan for the safety of the workgroup when incidents of DV/IPV, SA, or stalking affect the workplace. Locations with no EAP representative on site are encouraged to work with the local DV/IPV, SA, and Stalking Incident Response Team to develop an appropriate response plan.

(1) An EAP referral can be a simple tool to encourage victims of DV/IPV, SA, or stalking to seek out help or assistance. A list of resources for victims of DV/IPV, SA, and stalking should be maintained to provide employees with information regarding crisis hotlines, and local and national service providers, including EAPs when available, that can assist these individuals (see Appendix C).

(2) EAP professionals play a key role in training staff on how to identify warning signs of potential violence and on how to intervene most effectively. EAPs play the following key roles:

(a) Maintain up-to-date referral resources on domestic violence hotlines, advocacy groups, shelters, counseling services and legal services (pro bono legal assistance and domestic violence/family court information) as well as resources for individuals using violence, including certified batterer's intervention programs. As these resources change frequently, it will be important to verify the referral information often.

(b) Provide education on DV/IPV, SA, and/or stalking through channels such as lunchtime seminars, newsletters, posters, pamphlets, and employee and management training.

(c) Educate supervisors about the EAP's ability to intervene in DV/IPV, SA, or stalking situations.

(d) Inform managers of the need to call the EAP to consult about any DV/IPV, SA, and/or stalking situations that they become aware of, including concerns about individuals who are either experiencing or using violence.

(e) When appropriate, and with the written permission of the individual experiencing violence, provide advice and consultation to the supervisor with respect to issues of DV/IPV, SA, or stalking in the workplace in order to achieve workplace cooperation regarding leave of absence, fair consideration of any performance or conduct problem directly related to the violence, safety needs, disciplinary actions against an individual who abuses a co-worker or employee in the workplace, and access to any other needed services.

(f) Discuss with human resources staff any human resources policy which may negatively impact individuals who are experiencing violence.

(g) Establish a working relationship with domestic violence service agencies in the community, sharing information and resources.

## 5. REFERENCES

- a. 5 U.S.C. 105.
- b. 38 CFR 1.204.
- c. [Executive Order 11246](#).
- d. Presidential Memorandum on Establishing Policies for Addressing Domestic Violence in the Federal Workplace, April 18, 2012
- e. Title VII of the Civil Rights Act of 1964.
- f. Title VII of the Civil Service Reform Act of 1978, PL 95-454.
- g. United States Office of Personnel Management Guidance for Agency –Specific Domestic Violence, Sexual Assault, and Stalking Policies, February 2013.
- h. VA Handbook 5011.
- i. VA Handbook 5021.

## 6. DEFINITIONS

a. **Cultural Competence.** A set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals that enable effective work in cross-cultural situations. “Culture” refers to integrated patterns of human behavior that include the language, thoughts, communications, actions, customs, beliefs, values, and institutions of racial, ethnic, religious, or social groups. “Competence” implies having the capacity to function effectively as an individual or an organization within the context of the cultural beliefs, behaviors, and needs presented by consumers and their communities.

b. **Domestic Violence.** A pattern of coercive behavior, including acts or threatened acts, that are used to gain power and control over a current or former spouse, family member, current or former intimate partner, current or former dating partner, or person with whom the individual who uses violence shares a child in common. This behavior includes, but is not limited to, physical or sexual violence, emotional and/or psychological intimidation, verbal abuse, stalking, economic control, harassment, threats, physical intimidation, or injury. Domestic violence can occur in any relationship, regardless of socio-economic status, education level, cultural background, age, gender, race, ethnicity, sexual orientation, gender identity, or religion. Domestic violence can occur in heterosexual and same-sex intimate relationships, including marital, cohabiting, or dating relationships that are not dependent on the existence of a sexual relationship.

c. **Domestic Violence/Intimate Partner Violence, Sexual Assault, and Stalking Incident Response Team.** A facility-level interdisciplinary committee whose primary charge is to develop an effective, confidential, and accessible way for employees to report DV/IPV, SA, or stalking incidents or concerns.

d. **Employee.** For the purposes of this part, an employee is defined as any person appointed by VA. This does not include employees of private contractors hired by VA. For the purposes of this policy, the term employee includes detailees and volunteers working at the VA. **NOTE:** *Health professions trainees (including students, interns, residents and fellows) appointed under 38 U.S.C. 7405 or 7406 are not considered employees for the purposes of this handbook.*

e. **Employer.** For the purposes of this part, VA is the employer.

f. **Federal Workplace.** An employee is considered to be in the Federal workplace while in, or using the resources of, Federal offices, facilities, employer-approved telework or other work sites, equipment, or vehicles, or anywhere that an employee is conducting business on behalf of VA, or while on work-related travel. The availability and character of a VA response to a workplace-related incident may be dependent upon the location at issue.

g. **Individual Who Experiences Violence.** An individual who is the recipient of violent behavior, either in the present or past. Violent behavior can include intimate partner violence, sexual assault, and/or stalking behavior. Traditionally referred to as victim or survivor.

h. **Individual Who Uses Violence.** An individual who uses or threatens to use violence, either in the present or past tense. Traditionally referred to as batterer, abuser, or perpetrator.

i. **Interpersonal Violence.** The intentional use of violence, threatened or actual, that results in or has a high likelihood of resulting in death, injury, or psychological harm, maldevelopment, or deprivation.

j. **Intimate Partner Violence (IPV).** Physical, sexual, or psychological harm or stalking behavior by a current or former partner that occurs on a continuum of frequency and severity ranging from emotional abuse to chronic, severe battering or even death. It can occur in heterosexual or same-sex relationships and does not require sexual intimacy or cohabitation.

k. **Physical Violence.** The intentional use of physical force with the potential for causing death, disability, injury, or harm. Physical violence includes, but is not limited to, scratching; pushing; shoving; throwing; grabbing, biting choking; shaking; slapping; punching; burning; use of weapon; and use of restraints or one's body, size, or strength against another person.

l. **Protective or Restraining Order.** Individuals who have experienced violence may obtain a protective order, sometimes called a restraining order, a stay-away order, a no-abuse order, or a peace order, from a court to protect them from a perpetrator. Such an order also may establish custody and visitation guidelines and provide for forms of economic security, like rent or mortgage payments, which last for the duration of the order. Protective orders may also be issued in criminal cases as a condition of probation or condition of release, particularly in a domestic violence, sexual assault or stalking related crime.

m. **Psychological/Emotional Violence.** Involves trauma to one's partner caused by acts, threats of acts, or coercive tactics. Psychological/emotional aggression can include, but is not limited to, humiliating one's partner, controlling what one's partner can and cannot do, withholding information from one's partner, deliberately doing something to make one's partner feel diminished or embarrassed, isolating one's partner from friends and family, denying one's partner access to money or basic resources.

n. **Sexual Assault.** Various behaviors, including but not limited to, a completed nonconsensual sex act (e.g., rape, sodomy, child molestation), an attempted nonconsensual sex act, abusive sexual contact (i.e., unwanted touching), and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal harassment). Sexual assault includes any sexual act or behavior that is perpetrated when someone does not or cannot consent. Sexual assault may occur between people who know each other, such as co-workers or supervisors; individuals who are dating or married to each other, or parties that are unknown to each other. Lack of consent should be inferred when an individual uses force, harassment, threat of force, threat of adverse personnel or disciplinary action, or other coercion to engage in sexual behavior, or when the victim is asleep, incapacitated, unconscious, or physically or legally incapable of consent.

o. **Sexual Violence.** There are three categories of sexual violence: 1) use of physical force to compel a person to engage in sexual acts against his or her will, whether or not the act is completed; 2) attempted or completed sex act involving a person who is unable to understand the nature or condition of the act, to decline participation, or to communicate unwillingness to engage in the sexual act, e.g., because of illness, disability, or the influence of alcohol or other drugs, or because of intimidation or pressure; and 3) abusive sexual contact.

p. **Stalking.** Refers to repeated, unsolicited, and unwanted contact or monitoring either in person or via communication media such as phone, internet, email, social media, camera, or video. It may also include harassing or threatening behavior that an individual engages in repeatedly, such as following a person, appearing at a person's home or place of business, making harassing phone calls, leaving written messages or objects, or vandalizing a person's property.

q. **Threats.** The use of words, gestures, weapons, or other means to communicate the intent to cause harm.

r. **Trauma-Informed Care.** An approach to engaging people with histories of trauma that recognizes the presence of trauma symptoms and acknowledges the role that trauma has played in their lives.

s. **Workplace.** An employee's official duty station or alternative work location that is associated with the employee's established tour of duty (working hours). The employee is considered to be in the workplace while in or utilizing the resources of the employer, including but not limited to, facilities, work sites, equipment, or vehicles, or while on work related travel.

t. **Workplace Related Incidents.** Acts, attempted acts, or threatened acts of domestic violence, sexual assault, and stalking by or against employees, and/or against employees' families or property, that occur in the workplace or that occur outside the workplace but have an impact on the workplace.

u. **Workplace Safety Plan.** A strategy developed in collaboration with a victim to implement workplace safety options, including but not limited to, handling of court protection orders, procedures for alerting security personnel, temporary or permanent adjustments to work schedules and locations, changes in parking spots, and requests for escorts to and from workplace facilities.

v. **Workplace Violence.** Workplace violence ranges from offensive or threatening language to homicide. The National Institute for Occupational Safety and Health (NIOSH) defines workplace violence as violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty. Examples of violence include the following: threats (expressions of intent to cause harm, including verbal threats, threatening body language, and written threats); physical assaults (attacks ranging from slapping and beating to rape, homicide, and the use of weapons such as firearms, bombs, or knives); and muggings (aggravated assaults, usually conducted by surprise and with intent to rob).

## 7. WORKPLACE FLEXIBILITIES

a. Various types of workplace flexibilities are available to an employee when the employee and/or the employee's family member(s) are experiencing DV/IPV, SA, sexual violence, and stalking. To the greatest extent possible, supervisors should work in collaboration with the employee to provide leave and/or other workplace flexibilities to help the employee remain safe and maintain his or her work performance. All possible leave options should be considered for an employee in this situation. When the need for time off is foreseeable, an employee must provide reasonable advance notice to the supervisor.

b. Although the supervisor is the only person who can approve leave, a leave request may be made through a third party, e.g., an EAP counselor. Employees are not required to provide personal details in their requests for leave. However, employees are required to provide enough information in their leave requests so that supervisors know which type of leave is appropriate (e.g., sick leave, annual leave, Family and Medical Leave Act, etc.). Available flexibilities regarding leave from the workplace can be found in VA Handbook 5011, Part III. Flexibilities may vary depending on whether the employee is covered by the title 5 or title 38 employment system. It is important to note that these options may be applied to situations in which DV/IPV, SA, and/or stalking is currently taking place or to situations in which the trauma is related to a past incident(s).

c. Individuals experiencing DV/IPV, SA, and stalking may need time off to secure medical assistance, legal assistance, counseling, or to attend to other matters related to the violence, such as court proceedings, relocation, or safety planning for him or herself. Every reasonable effort will be made to assist an employee to maintain employment when the employee is experiencing or has experienced violence in or outside the workplace. The supervisor will work in collaboration with the employee to provide reasonable and flexible leave options when an employee is experiencing DV/IPV, SA, and/or stalking. The supervisor will also work with an employee to determine if other non-leave related assistance will facilitate the employee's ability to remain safe and maintain his or her work performance, e.g., modifying work schedules, changing employee's location within the workplace or location of a parking spot, changing phone numbers, arranging telecommuting options, etc. Refer to parts II and III of VA Handbook 5011 for specific information regarding leave and hours of duty.

## 8. STATEMENT OF CONFIDENTIALITY

a. VA recognizes and respects an employee's right to privacy and the need for confidentiality and individual consideration. Confidentiality of an employee's disclosure regarding violence will be maintained to the extent permitted by law and unless the disclosure would result in physical harm to any person and/or jeopardize safety within the workplace. When information must be disclosed to protect the safety of individuals within the workplace, the breadth and content of such disclosure shall be limited to information reasonably necessary to protect the safety of the disclosing employee and others to comply

with the law. Every effort will be made to provide advance notice to the employee who disclosed information if the disclosure must be shared with other parties in order to maintain safety in the workplace. The employee shall be provided with the name and title of the person to whom the employee's statements will be shared with an explanation of the necessity and purpose regarding said disclosure.

b. Supervisors should be aware that the confidentiality of employee information and records related to DV/IPV, SA, and stalking is critical. This information must be protected and kept separate from other records maintained on the employee. Any type of monitoring or evaluation depends, in part, on written or electronic records. It is crucial that any records relevant to DV/IPV, SA, and stalking incidents be kept in a confidential place and only shared, as necessary, with appropriate personnel, such as those involved in security or management roles. See page 18 of [The Office of Personnel Management Guidance for Agency-Specific Domestic Violence, Sexual Assault, and Stalking Policies](#) for further discussion on confidentiality.

## 9. RESPONSES TO VICTIMS

a. **Nondiscrimination and Non-Retaliation.** VA shall not discriminate in hiring, staffing, or other terms and conditions of employment against any employee for disclosing his or her status as a victim of violence or for submitting a complaint or disclosing concerns about violence to VA. VA shall not retaliate or take adverse employment actions against any employee for submitting a complaint pursuant to this policy, for disclosing his or her status as a victim or for actions of violence perpetrated by another against an employee that occur in or have an impact on the workplace.

b. **Work Performance.** Employees who are experiencing violence may experience temporary difficulty fulfilling job responsibilities. If a supervisor becomes aware that an employee's work performance or conduct has been impacted by DV/IPV, SA, and/or stalking, the supervisor will offer support to the employee and work in collaboration with the employee to address the issues, in accordance with established policies within the workplace. The supervisor will consider the impact of DV/IPV, SA, and/or stalking as a mitigating factor in determining administrative actions against individuals experiencing violence for workplace performance, as described in OPM guidance. The supervisor will take appropriate measures to ensure an employee's status as someone experiencing DV/IPV, SA, and/or stalking does not negatively impact/compromise his or her rights and privileges of employment with VA.

c. **Protection and Restraining Orders.** An individual experiencing violence may seek an order of protection, or may receive a restraining order from the appropriate court or law enforcement body, as part of his or her efforts to become safe and as part of his or her workplace safety plan. VA recognizes that the workplace may or may not be included on an order as a location from which a perpetrator must remain away. If an employee chooses to disclose the existence of a protection or restraining order to his/her supervisor, VA will, wherever possible, assist the employee to enforce said order, shall archive said order in a confidential and separate file from the employee's personnel file, and, if applicable, will assist the employee to gather documentation from the workplace, such as email or voice messages, that could support the employee's efforts in the justice system or otherwise obtain or maintain safety from a perpetrator.

**10. RESPONSES TO EMPLOYEES CONCERNED ABOUT VIOLENCE.** Co-workers, managers, and other employees should encourage individuals experiencing DV/IPV, SA, and/or stalking incidents to seek consultation from qualified professionals, such as DV/IPV or SA advocates. They should only report incidences of DV/IPV, SA and/or stalking themselves if they have the full consent of the individual experiencing violence. Reporting without consent of the individual would only be appropriate in incidences of imminent and severe harm to employees or VA property. VA shall not retaliate against, terminate, or discipline any employee for reporting concerns about workplace related incidents of violence pursuant to this part, including an allegation that the act was perpetrated by a fellow employee or person in a management capacity. Prohibited acts of retaliation include, but are not limited to, demotion or withholding of earned pay, as well as acts of personal retaliation, such as those related to an employee's immigration status or sexual orientation. Any employee who believes he or she has been subjected to retaliation as a result of making a report pursuant to this policy should contact his or her local Human Resources Office.

**11. RESPONSES TO EMPLOYEES WHO COMMIT VIOLENCE.** If an employee discloses that he or she has committed a workplace-related incident of violence, as defined in paragraph 6v, or if a supervisor becomes aware that an employee may have committed such incident, the supervisor shall refer the employee to VA security or local law enforcement to conduct appropriate investigations, interventions, and referrals. 38 CFR 1.204 requires VA employees to report to the VA OIG all felony crimes impacting upon VA programs and operations. This would include all felony crimes which have actually occurred or appear likely to occur on VA property. VA will investigate immediately and may take disciplinary/adverse action, up to and including removal/termination, against any employee who threatens to commit or who commits workplace-related incidents of DV/IPV, SA, and/or stalking. The supervisor will be responsible for initiating the investigation with the appropriate parties. Employees are prohibited from utilizing any workplace resources, such as work time, phones, email, computers, fax machines or other means to threaten, harass, intimidate, embarrass or otherwise harm another person. An employee who is subject to a protection or restraining order, or a named defendant in a criminal action as a result of a threat or act of DV/IPV, SA, and/or stalking must disclose the existence of such criminal or civil action if the conditions of such actions interfere with the employee's ability to perform his or her job, impact another employee at VA or specifically relate or name VA in the civil or criminal action. Failure to disclose the existence of such criminal or civil actions in these circumstances may result in disciplinary/adverse action, up to and including removal/termination from employment.

**12. REPORTING AND REFERRALS.** Employees who use or experience DV/IPV, SA, and/or stalking are encouraged to provide a report to their supervisor. The local facility POC, supervisor, or EAP representative will provide community referrals and resources to assist employees with their concerns or experiences regarding violence. An employee should also contact Human Resources/Employee Relations if he or she wishes to report a violation of this part. VA will not subject employees who report violence or report a threat of violence to work-related or personal retaliation. All locations must maintain, publish, and post in locations of high visibility, such as bulletin boards and break rooms, health units, phone directories, and online information databases, a list of resources for individuals experiencing DV/IPV, SA, and/or stalking, including but not limited to the National Domestic Violence hotline number (800) 799-SAFE, security services appropriate to location, the EAP number, the phone number and description of local domestic violence resources information on how to obtain civil orders of protection and criminal justice options, and a list of certified batterers' intervention programs (see Appendix C for additional

resources). It is particularly important that written resource and referral information be available in all the languages spoken by employees. Other appropriate assistance may need to be evaluated on an individual basis.

**13. SAFETY PLANNING, BUILDING SAFETY, AND SECURITY SERVICES.** When a violent incident affects the workplace, it is important that employees and supervisors know what to do. In consultation with the individual experiencing violence and his or her supervisor, or other support personnel identified by the individual experiencing violence, security offices should assist these individuals in developing the workplace and telework component of their safety plans. This planning may involve temporary changes, such as moving the employee to a more secure location or instituting an adjustment to the employee's work schedule to make the employee less vulnerable to contact by the person using violence. Wherever possible, local security offices will also keep copies of restraining orders and photos of the perpetrator at all appropriate security locations in accordance with the laws of the state or jurisdiction and/or the court that issued the order. Local security personnel will also:

a. Provide consultation and reasonable assistance to employees experiencing violence or who fear an attack may occur at work.

b. Document violations of a restraining order.

c. Respond and intervene, as needed, to calls concerning safety in the workplace.

d. Accept transferred harassing telephone calls from the employee's abuser, and document the calls.

e. Work closely with appropriate law enforcement agencies to ensure workplace safety.

f. Keep a certified copy of any restraining orders provided by the employee in a confidential file. Access to orders and information contained in them should be limited on a need to know basis.

g. Review the safety of parking arrangements. Worksites may differ on regulations and procedures regarding parking.

h. In addition, security office personnel can provide a valuable first line of defense for employees who are pursued or stalked. It is critical to involve the security office when both individuals work in the same physical location. Individuals who engage in violence and/or stalking can be extremely resourceful in gaining access to buildings and sites, with even the best of security systems, often by simply talking their way in or getting someone on the inside to help. In reviewing site access and entry control systems and procedures, consider the following issues:

(1) How well trained are officers, including contract security officers, with respect to DV/IPV, SA, and/or stalking as it impacts the workplace?

(2) Are VA policies and procedures easily accessible and distributed as appropriate?

(3) Could someone talk their way past a security officer by claiming, for example, that they are there to have lunch with their spouse or partner or that they were authorized to make a package delivery?

(4) Do employees inside the building open the door to strangers who have “forgotten their IDs”?

(5) Do employees receive annual security training that incorporates discussions of workplace violence concerns?

(6) Do employees have round-the-clock-security, or could someone gain access to the building after hours?

**14. TRAINING.** Training for all VA personnel is an important part of responding to DV/IPV, SA, and stalking in the workplace. [It is highly recommended every employee completes the training] in the Talent Management System (TMS) [titled “Domestic Violence/Intimate Partner Violence (DV/IPV), Sexual Assault (SA), Stalking in the Workplace” (TMS course #3940800)]. This training will emphasize identification of warning signs of potential violence in both the victim and perpetrator and how to intervene most effectively. Additionally, facilities are encouraged to offer site-specific training sessions. Training sessions conducted by local EAP, security, and employee relations staff are particularly helpful, enabling employees to get to know experts within their facility or site who can help them when potentially violent situations arise. Employees and supervisors seek assistance at a much earlier stage when they personally know who can provide assistance. Providing appropriate training assures employees that management will take threats seriously, encourages employees to report incidents, and demonstrates management’s commitment to dealing with reported incidents. The training will provide the following:

- a. An overview of the various aspects of DV/IPV, SA, and stalking;
- b. Impact, symptoms, and behaviors often associated with experiencing or using violence;
- c. Building security overview;
- d. Policies and procedures related to DV/IPV, SA, and stalking;
- e. Reporting requirements and processes;
- f. Departmental and local resources;
- g. Training to improve VA response and increase awareness of responding to DV/IPV, SA, and stalking;
- h. Skills in behaving compassionately and supportively towards employees who report incidents;
- i. Basic skills in handling crisis situations; and
- j. Basic emergency procedures.

**NOTE:** *Health professions trainees appointed under 38 U.S.C. 7405 or 7406 receive all training (on this topic and others) through the Mandatory Training for Trainees course.*

**15. ADDRESSING COMPUTER TECHNOLOGY CONCERNS.** Information technology personnel will consult with the individual experiencing violence to address computer safety concerns. These concerns include the use of computer technology to harass or stalk an employee, as well as information on the VA's website that could potentially be used to harm the victim. As appropriate, the safety plan will address these concerns, including the removal of identifying information, such as the individual's telephone number and office location, from VA's internal and external websites.

**16. CONTRACTORS.** The VA workplace also includes contractor employees of vendors. Such personnel are not VA employees. [Executive Order 11246](#), as amended, sets requirements for Federal contractors on non-discriminatory practices and prohibits contractors from discriminating against their employees on the basis of sex, including by engaging in or allowing their employees to engage in sexual harassment. Contractors are also required to comply with [Title VII of the Civil Rights Act of 1964](#), including its prohibition on sex discrimination. Prohibited behavior could occur in conjunction with DV/IPV, SA, or stalking. Concerns regarding the conduct of contractors should be promptly brought to the attention of the relevant contracting officer or contracting officer's technical representative and/or agency security personnel or law enforcement. If a contractor is experiencing or using violence in the workplace, the supervisor will consult security personnel as necessary to enhance the safety of the workplace.

**APPENDIX A.  
ANNUAL REVIEW REPORT**

Each administration will appoint a representative to submit an annual report regarding domestic and sexual violence (including sexual harassment) upon request by OHRM. Reports will be submitted to the Worklife and Benefits Service via email to: [VACO.058.WL&B.OHRM](mailto:VACO.058.WL&B.OHRM). The Worklife and Benefits Service will consolidate the data and submit the VA report to OPM.

1. Number of employees and supervisors receiving training or educational information on DV/IPV, SA and stalking.
2. Number of employees requesting information, referrals, or time off for needs relating to DV/IPV, SA and/or stalking.
3. Number of Orders of Protection or restraining orders given to management by employees or taken out by the employer in consultation with employee.
4. Number and/or percentage of employees requesting help for DV/IPV, SA and/or stalking through EAP services.
5. Records of threat assessment and violence prevention actions related to DV/IPV, SA and/or stalking, specifically plans made to respond to DV/IPV threats and/or prevent incidents of sexual harassment and violence.
6. Incident reports of any violent events that involved employees or others at work.
7. Changes to local policies or procedures that were implemented during the last year.



**APPENDIX B.**  
**SAMPLE THREAT ASSESSMENT TOOL**

**All reports of threatening or violent conduct should be taken seriously and evaluated.** While the method of evaluation, screening, and assessment will vary depending upon the size of the facility and security operation, as well as the nature and severity of the threat, the list below is a good guideline. **If an employee self-discloses DV/IPV/SA and/or stalking and it appears that they may be in immediate danger, call 911.** A threat assessment should take place if the danger is present, but not urgent. Facility management must decide who should conduct the assessment, whether it be Security, an HR representative, or a manager. Be sure to let the employee know that only certain information will be shared with HR, Security and other key people within the organization to ensure his or her safety.

1. What is the situation? Please explain the details.
2. Has the alleged offender made any threats?
3. What type of violence have you been exposed to?
4. Have there been any harassing or threatening phone calls, voicemail messages or electronic communication? If so, do you still have access to or copies of them?
5. Are your co-workers aware of the situation?
6. Do you feel safe at work?
7. Has your significant other/spouse/partner (use the term the victim uses) made any threats, specifically to try to hurt you at work?
8. Does the alleged offender know where you work? Has he/she visited the facility in the past?
9. Does the alleged offender have a history of violence?
10. Do you think you or others are in danger? (The victim knows best what the abuser is capable of.)
11. Do you know if the alleged offender has access to or possesses any type of firearms or weapons?
  - a. If so, are they registered?
  - b. Please describe the type (handgun, shotgun, assault rifle, etc.)
12. What is the status of your relationship?
13. Have you contacted the EAP or a domestic violence program in the community?
14. Can I help you gather or provide you with the numbers of local domestic violence resources?

15. Have you sought out any medical attention?
16. Has a report been filed with the police? If so, please provide a copy of the report
17. Has an order of protection been issued?
  - a. If so, please provide a copy
  - b. If not, will one be filed?
18. Can you provide a description and current picture of the alleged offender?
19. What is your need for safety NOW?
20. Do you need time off to attend court?
21. Do you need more extended leave to find safe housing or address other safety concerns?
22. Do you need to be escorted to and from your/public transportation?
23. Do you need time off or flexible hours to arrange for childcare?
24. Do you need to change your hours or work location?
25. Do you have the confidential security hotline number handy?
26. Do you have a safety plan? If not, it would be a good idea to work with a domestic violence counselor to create one.
27. Do you need any further assistance?

At this point, if there is no threat to the safety of the victim at work, offer referrals to local domestic violence counselors and/or the EAP. Each case is different and responses must be tailored to the circumstances. When the threat assessment process determines that a high level of planning or response is needed, the more intensive step of gathering the Domestic Violence/Intimate Partner Violence, Sexual Assault, and Stalking Incident Response Team should be taken. Always consult your security department, the police or other experts to help you make an accurate threat assessment.

**APPENDIX C.  
RESOURCES LISTING**

**National Domestic Violence Hotline**

Provides toll-free, live phone response and crisis intervention to callers 24 hours a day, 365 days a year, offering information and referrals across all U.S. states and territories.

P.O. Box 161810  
Austin, TX 78716  
Phone: 800-799-SAFE (7233) or 800-787-3224 (TTY)  
Fax: 512-453-8541  
Website: [www.ndvh.org](http://www.ndvh.org)

**National Center on Domestic and Sexual Violence**

Provides training, consulting, and advocacy. Collaborates with law enforcement, legal system agencies, advocacy organizations, social service agencies, the military, and other community entities to integrate efforts to end domestic and sexual violence.

4612 Shoal Creek Boulevard  
Austin, Texas 78756  
Phone: 512-407-9020  
Website: <http://www.ncdsy.org/>

**National Coalition Against Domestic Violence**

A national organization focused on coalition building, policy, and public education at the local, state, regional and national levels, whose website includes a list of all state domestic violence coalitions.

P.O. Box 18749  
Denver, CO 80218  
Phone: 303-839-1852  
Fax: 303-831-9251  
Website: [www.ncadv.org](http://www.ncadv.org)

**National Network to End Domestic Violence**

A social change organization representing state domestic violence coalitions which is dedicated to creating a social, political and economic environment in which violence against women no longer exists.

660 Pennsylvania Avenue, SE, Suite 303  
Washington, DC 20003  
Phone: 202-543-5566  
Fax: 202-543-5626  
Website: [www.nnedv.org](http://www.nnedv.org)

**National Resource Center on Domestic Violence**

Provides domestic violence prevention support to organizations and individuals through technical assistance, training and information.

6400 Flank Drive, Suite 1300  
Harrisburg, PA 17112  
Phone: 800-537-2238  
Fax: 717-545-9546  
Website: [www.nrcdv.org](http://www.nrcdv.org)

**The National Center for Victims of Crime**

The nation's leading resource and advocacy organization for crime victims and those who serve them. Their mission is to forge a national commitment to help victims of crime rebuild their lives.

2000 M Street NW, Suite 480  
Washington, DC 20036  
Phone: 202-467-8700  
Fax: 202-467-8701  
Email: [gethelp@ncvc.org](mailto:gethelp@ncvc.org)  
Website: <http://www.ncvc.org/>

**National Sexual Violence Resource Center**

Serves as the nation's principal information and resource center regarding all aspects of sexual violence. It provides national leadership, consultation, and technical assistance by generating and facilitating the development and flow of information on sexual violence intervention and prevention strategies. The NSVRC works to address the causes and impact of sexual violence through collaboration, prevention efforts and the distribution of resources.

Phone: 717-909-0710  
Website: <http://www.nsvrc.org>

**National Center on Protection Orders and Full Faith and Credit, Battered Women's Justice Project**

Provides ongoing technical assistance and training on full faith and credit, Federal firearms prohibitions related specifically to domestic violence, Federal domestic violence and stalking crimes, and inter-jurisdictional child custody cases involving domestic violence. Audiences include law enforcement officers, prosecutors, judges, court administrators and other court personnel, civil attorneys, victim advocates, and others who work with victims of domestic violence and stalking.

1901 North Fort Myer Drive, Suite 1011  
Arlington, VA 22209  
Phone: 800-903-0111, ext. 2  
Fax: 703-312-7966  
Website: [www.fullfaithandcredit.org](http://www.fullfaithandcredit.org)

**Stalking Resource Center, National Center for Victims of Crime**

The mission is to enhance the ability of professionals, organizations, and systems to effectively respond to stalking. Provide training, technical assistance, and resource materials for professionals working with and responding to stalking.

Phone number: 202-467-8700

Fax number: 202-467-8701

Website: [www.victimsofcrime.org/src](http://www.victimsofcrime.org/src)

[www.stalkingawarenessmonth.org](http://www.stalkingawarenessmonth.org)

Email: [src@ncvc.org](mailto:src@ncvc.org)

**Government Online Resources**

**Federal Bureau of Investigation**

[Violence in the Workplace: Preventing It, Managing It](#)

**U.S. Department of Justice, Office of Justice Programs**

[Violence Against Women Office: Resources for Victims and Communities, Law and Regulations](#)

**U.S. Department of Labor, Occupational Safety & Health Administration (OSHA)**

Workplace violence prevention information at [www.osha.gov/SLTC/workplaceviolence/](http://www.osha.gov/SLTC/workplaceviolence/)

**Guidance for Agency-Specific Domestic Violence, Sexual Assault and Stalking Policies**

<https://www.opm.gov/policy-data-oversight/worklife/news/2013/2/opm-guide-for-agency-specific-domestic-violence-sexual-assault-and-stalking-policies-released/>

**[HR University Training Course**

Domestic Violence, Sexual Assault, and Stalking in the Workplace

[http://hru.gov/Course\\_Catalog.aspx?cid=231&mgr=false](http://hru.gov/Course_Catalog.aspx?cid=231&mgr=false)

**Title VII of the Civil Rights Act of 1964**

<http://www.eeoc.gov/laws/statutes/titlevii.cfm>

**Executive Order 11246 – Office of Federal Contract Compliance Programs (OFCCP)**

<http://www.dol.gov/ofccp/regs/compliance/fs11246.htm>



**APPENDIX D.  
COMPONENTS OF A WORKPLACE SAFETY PLAN**

1. Consider obtaining a civil order for protection and make sure that it is current and on hand at all times. Include the workplace on the order. A copy should be provided to the police, your supervisor, Human Resources, the Legal department, and Security regardless of whether you believe that the abusive partner may come to the work site. Ask co-workers and/or supervisors to call the police if the perpetrator threatens, harasses you at work or violates the civil order for protection in any way.
2. Consider providing a picture of the individual who used violence to reception areas and/or security.
3. Consider identifying an emergency contact person should your employer be unable to contact you.
4. Review the safety of your parking arrangements.
5. Consider having Security escort you to and from your car or public transportation and/or obtaining special parking access.
6. Consider requesting a change and/or unpredictable rotations of your work schedule, work site, or work assignment if such a change is possible and would enhance your safety at work.
7. Consider having your telephone calls screened at work.
8. Consider requesting additional security measures for your work site. It may be possible to relocate your workstation to a more secure area.
9. Review the safety of your childcare arrangements. If you have a protective order, make sure the provider has a copy.



EMPLOYEE OCCUPATIONAL HEALTH SERVICE  
PART VIII. EMPLOYEE ASSISTANCE PROGRAM

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## EMPLOYEE OCCUPATIONAL HEALTH SERVICE

### PART VIII. EMPLOYEE ASSISTANCE PROGRAM

#### 1. PURPOSE

a. This part sets forth Department of Veterans Affairs (VA) human resources policy and instructions for programs authorized by sections 523 and 527 of the Public Health Service Act, which is implemented by 42 CFR, part 2, and by 5 U.S.C. 7904, which is implemented by 5 CFR, part 792. VA will deal constructively with alcohol and drug abuse problems in the employment setting.

b. A program designed for the appropriate prevention, treatment and rehabilitation of employees with alcohol or drug use and abuse problems is mandatory. A broader Employee Assistance Program (EAP), encompassing, but not limited to emotional stress, mental health disorders, family or relationship difficulties, financial/legal concerns, job stress and other concerns that may affect work performance and personal health issues which affect employee performance and/or conduct, is highly encouraged.

c. A comprehensive program is more responsive to both employee and management needs than a program related solely to problems related to alcohol or drug abuse. Public Laws 96-180 and 96-181 authorize agencies to provide counseling services, to the extent feasible, to family members of employees who have drug or alcohol problems, and to employees with family members who have substance abuse problems.

d. Accordingly, this part, in addition to providing instructions for administering the required alcohol and drug abuse program, provides guidance to assist in establishing and managing the recommended broader EAP.

#### 2. POLICY

a. It is the policy of VA:

(1) To recognize alcoholism and drug abuse as treatable health problems.

(2) To encourage employees who suspect they may have alcoholism, drug abuse, and/or biopsychosocial issues, even in the early stage, to voluntarily seek counseling and information on a confidential basis by contacting the individual(s) designated to provide such services.

(3) To afford reasonable accommodation, as appropriate, to employees suffering from the disabling conditions of alcohol, or other drug abuse, by offering rehabilitative assistance. EAP services may be made available to immediate family members as needed in assisting the employee.

(4) To limit its concern with employees' personal problems to the extent that they may affect job performance, the efficiency of the service or be related to drug activity contrary to law.

(5) To assure that the Department does not condone employee drug activity that is contrary to law. When management has good reason to believe criminal conduct related to drug activity is directed

toward or is potentially harmful to the person or property of others, management's first obligation is to those persons or properties, and then to the employee(s) involved.

(6) To assure that no employee will have job security or promotion opportunities jeopardized by a request for counseling or referral assistance, except as limited by Title II, section 210(c)(2) of Public Law 91-616 or section 413(c)(2) of Public Law 92-255 relating to sensitive positions. (See VA Directive 5383.1 Appendix B, which outlines the uses of EAP pertaining to the Drug-Free Workplace Program for additional information regarding sensitive positions).

(7) To guarantee that the confidential nature of medical records of employees with alcohol and/or drug abuse problems and other issues addressed in EAP will be protected in accordance with sections 523 and 527 of the Public Health Services Act, 42 U.S.C. 290dd-3 and 290ee-3, which is implemented by 42 CFR, part 2. The EAP counseling records, to include all client record and other associated materials, calendars, daily logs, and client data, will be protected in the same manner to ensure confidentiality and will be maintained and disposed of in accordance with applicable VA records control schedules and the General Records Schedule 1.

(8) To allow supervisors to grant up to 1 hour (or more as necessitated by travel time or circumstances) of excused absence for each counseling session, up to a maximum of 8 total hours, per leave year, during the assessment/referral process. Absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category in accordance with law and leave regulations, 5 CFR, part 630, and VA Directive and Handbook 5011, Hours of Duty and Leave.

(9) To fulfill the labor relations obligations involved in the implementation and revision of local programs to assist employees with alcoholism, drug abuse, and/or biopsychosocial issues.

b. A clear concise policy statement issued by top management is an essential step in implementing a successful program. Policy statements, including identification of counseling staff, shall be announced and readily available to all managers and supervisors, union officials, and employees. In addition, program availability, goals and objectives should be periodically reviewed and updated.

### **3. RESPONSIBILITIES**

a. The Deputy Assistant Secretary for Human Resources Management, or designee, as the EAP Administrator shall:

- (1) Assume the lead role in the development, implementation, and evaluation of the Department EAP;
- (2) Assist facility EAP coordinators in establishing field facility EAPs; and
- (3) Advise field facilities on the submission of annual statistical reports, and prepare consolidated reports on Department EAP activity.

b. Administration Heads, Assistant Secretaries, Deputy Assistant Secretaries, and Other Key Officials are responsible for administering and assuring the implementation of the provisions of this program for employees under their respective jurisdictions. At a minimum, facilities must establish a program for employees seeking assistance with alcohol and drug abuse. Offices are strongly encouraged

to offer a more comprehensive program as identified in paragraph 1b above.

c. Facility EAP coordinators will be designated by facility directors and will be responsible for coordinating local operations of the program. In Central Office an EAP Coordinator, designated by the Deputy Assistant Secretary for Human Resources Management, will serve in a similar capacity. Responsibilities will include assisting in the implementation of the program, arranging for supervisory training, developing and maintaining counseling capability, and establishing liaison with community resources. They will also track EAP activities for any reporting requirement which may be established. EAP coordinators, with the exception of EOH providers, may serve as counselors. EAP counselors will not use information gained from counseling sessions to advise management officials as to any actions to take against an employee. Coordinators who provide EAP services to other facilities will ensure that employees receive information on the program.

d. Supervisors are responsible for recognizing when employees become deficient in job performance and/or have conduct issues. Supervisors have the additional responsibility for bringing such matters to the attention of employees, and for providing them with opportunities to correct their problems, regardless of their origin. Generally, early intervention will be most helpful in returning employees to productivity, and may even be a life-saving measure. Therefore, supervisors should:

(1) Be observant of work and/or behavior changes of assigned employees and ultimately refer the employee for counseling if the case appears to involve the abuse of alcohol or drugs, or other biopsychosocial issues which may be impacting negatively on performance, attendance or other job-related factors.

(2) Document specific instances of unacceptable work performance, behavior, or attendance.

(3) Advise counseling staff of the employee's problem by describing behavior without attempting to diagnose or draw conclusions, which is a medical and/or counseling responsibility.

(4) Interview the employee by focusing on poor work performance and/or conduct and providing information about EAP services if such performance is caused by biopsychosocial issues.

(5) In those cases where the employee refuses help and performance or conduct continues to be unsatisfactory, a firm choice may be provided between accepting Department assistance through counseling or professional diagnosis of the problem, and cooperation in treatment if indicated, or accepting consequences provided for unsatisfactory performance and/or conduct.

(6) Refrain from discussing the possibility of a drug or alcohol problem with an employee, except:

(a) **When an Employee Appears to be Impaired at Work.** The supervisor should inquire about the employee's condition, use local procedures to notify the EOH provider, and refer the employee to the appropriate medical service for diagnosis and emergency treatment, and ultimately refer the employee to the EAP.

(b) **When an Employee is Apparently Involved in Illegal Activities Related to Drugs.** Sections 523 and 527 of the Public Health Service Act do not charge agencies or their personnel with responsibility for seeking out information on illegal employee activity for the purpose of reporting it to

law enforcement authorities. Supervisors should be careful not to elicit or entertain any specificity or detail about the nature of any illegal activity or conduct involved from the employee. However, when management has good reason to believe an employee is involved in criminal conduct directed toward or potentially harmful to the person or property of others, such as selling drugs or stealing to support a drug habit, supervisors have an obligation first to those persons or properties, and then to the employee. Therefore, they may first report the facts to law enforcement authorities. These reports should be made through a management level at which the exercise of discretion is normally expected, and through which reports of other types of criminal activity are generally made.

e. When the EAP is an in-house program, EAP counseling staff will be designated by facility directors and will be responsible for advising supervisors and employees of the intent and procedures of this policy. In Central Office counseling staff will be identified by Administration Heads, Assistant Secretaries, Other Key Officials and Deputy Assistant Secretaries and recommendations forwarded, as requested, to the Deputy Assistant Secretary for Human Resources Management. To the maximum extent possible, individuals who perform clinical rather than administrative duties should be designated for collateral duties as a counselor such as social workers and psychologists. See paragraph 12 for alternative methods of providing counseling services. Counselors will keep abreast of policy changes, periodically update their counseling skills, and continually collaborate with the coordinator to identify appropriate community education, treatment and rehabilitation resources. Counselors will also assist the coordinator and other responsible program officials in the preparation and presentation of program related training.

(1) Counselors have the following primary responsibilities when consulted by a supervisor:

(a) Assist the supervisor in developing an approach within the framework of the program, and if necessary, coordinate this approach with other counselors; and

(b) Maintain confidentiality regarding the employee's biopsychosocial issues and any resultant diagnosis.

(2) When consulted by an employee, whether voluntarily or by management referral, counselors will:

(a) Thoroughly advise the employee of the intent, procedures, and confidentiality of the program. No counselor is bound to accept as a client an individual who persists in illegal activities. Therefore, if information is disclosed on planned illegal activity against others, or specificity and detail of past illegal activities, the counselor should consult the Regional Counsel (Office of General Counsel is the designee for Central Office) regarding appropriate steps. The counselor, as appropriate, should advise the employee that continued disclosure will result in termination of counseling services. If the employee commits or threatens to commit a crime that would physically harm someone or cause substantial property damage (as determined by law), disclosures may be made to appropriate persons, such as law enforcement authorities and those persons being threatened, but only if the disclosure does not identify the employee as an alcohol or drug abuser. The only exception is that if such a crime takes place during a counseling session, the EAP counselor can reveal only to law enforcement officers that an employee is an alcohol or drug abuser, as long as the information disclosed under this exception is limited to the circumstances of the incident. Any other disclosure about the employee may require a special court order.

(b) Where an employee has a conduct or performance problem, recommend that the employee sign a written consent to disclose to the supervisor information that the employee is seeking assistance. The form must be signed voluntarily. Inform the employee that without the release of information to the supervisor, the supervisor may initiate or proceed with an adverse action when an opportunity for rehabilitation may be more appropriate. The only information that may be disclosed to the supervisor is that which is specifically authorized by the employee.

(c) Restrict counseling services to matters relating to problem identification, referral for treatment and rehabilitation, or other assistance to an appropriate community or other professional resource, and follow-up to aid an employee in achieving an effective readjustment to his or her job. Such counseling services should be short-term. All employees may seek assistance from their primary care provider.

(d) When there is an EOH provider available, the EOH provider will be responsible for providing medical consultation to coordinators, counselors, supervisors, and employees concerning employee health issues. This consultation will be most helpful in offering effective guidance to employees if the EOH provider is fully informed of program policies and the responsibilities and capabilities of the counseling staff.

#### 4. REFERENCES AND AUTHORITIES

- a. OPM Operating Manuals 792-1 and 792-2;
- b. VA Directive 5383.1 Appendix B;
- c. VA Directive 6300;
- d. VA Handbook 5025, Legal, Parts II and III;
- e. 5 CFR 792;
- f. 5 U.S.C., Chapter 73, subchapter VI;
- g. 5 U.S.C., Chapter 79;
- h. 21 U.S.C., 1101;
- i. 29 CFR 1614.203;
- j. 42 CFR, Part 2.

#### 5. DEFINITIONS

a. **Alcoholism.** For the purpose of this policy, alcoholism is defined as the use or abuse of alcohol that interferes with the employee's ability to perform his or her duties.

b. **Biopsychosocial.** A term encompassing an individual's physical, mental, and social status. For the purpose of this policy, biopsychosocial may include physical, emotional, financial, marital, family,

legal, or vocational problems that currently, or may in the future, adversely affect an employee's job performance and/or conduct.

c. **Drug Abuse.** For the purpose of this policy, drug abuse is defined as a health problem in which the employee's job performance and/or conduct are impaired as a direct consequence of the use of drugs.

d. **EAP Coordinator.** A person designated with sufficient authority and official time to effectively implement EAP policies and programs. Coordinators shall identify the range of counseling needs and ensure that personnel with appropriate skills are designated to serve as counselors. Coordinators shall develop and implement an evaluative tool to measure the effectiveness of the facility EAP.

e. **EAP Counselor.** EAP counselors shall be both licensed and non-licensed professionals that provide confidential specialized services, assessments, therapeutic interventions, short-term counseling, referral and follow-up to help employees readjust to their job during and/or after treatment. EAP counselors help supervisors and employees cope with traumatic events such as a death of a co-worker, natural and manmade disasters, or accidents. EAP counselors also conduct educational activities on a variety of issues such as substance abuse, stress management, financial management, HIV/AIDS, and balancing work and family responsibilities.

**6. COMMUNITY AND OTHER RESOURCES.** A key element in an effective EAP is the full availability of, and liaison with community resources. It is essential for coordinators and counselors to identify and establish working relationships with community resources that deal with education, treatment, and rehabilitation. Such organizations typically include mental health centers, medical clinics, family service centers, financial management counselors, housing, legal aid, vocational training, education facilities, self-help groups, and numerous local organizations that deal with alcohol and drug treatment and rehabilitation. Program coordinators and counselors will maintain current information on available community resources. They also should utilize the technical assistance and advice of other VA medical and professional employees to the extent feasible.

## **7. RELATIONSHIP TO CORRECTIVE ACTIONS**

a. The EAP is not intended to shield the employee from corrective actions. The purpose of the EAP is to assist employees in identifying personal problems that may adversely affect job performance or conduct and to refer employees to appropriate treatment facilities. A successful program assists the employee in overcoming a personal problem so that performance and/or conduct improves and corrective action, such as disciplinary, adverse or other performance-based actions, becomes unnecessary. No employee will have his or her job security or promotion opportunities jeopardized as a consequence of seeking assistance through the EAP; nor will an employee who refuses the service of the EAP be dismissed for that reason alone.

b. Depending on the circumstances, it may be appropriate to offer assistance to an employee to help correct the performance and/or conduct problem as an alternative to the corrective action or at the same time the action is initiated. A corrective action may be warranted where there is an overt act of serious misconduct as a result of alcohol use, drug use or a biopsychosocial problem.

c. Alcohol and drug abuses are covered conditions under the Rehabilitation Act of 1973; therefore, reasonable accommodation will be considered before effecting a disciplinary or adverse action. However, current use of illegal drugs will exclude employees from coverage under the Rehabilitation Act. An employee's claim of substance abuse, or other problems discussed in this part in some situations may prevent management officials from taking corrective actions. Both judicial and administrative appellate tribunals have imposed certain restrictions on management that must be considered when such actions are contemplated. Because case law in the area of reasonable accommodation is evolving, management officials contemplating taking corrective actions in these circumstances should collaborate closely with their local Human Resources Management Office.

d. Information obtained through the program may be disclosed or used only as permitted by law and regulation and may not otherwise be disclosed or used in any administrative proceeding. Thus, information obtained through an unauthorized disclosure cannot be used to support a disciplinary action.

**8. RELATIONSHIP TO VA DRUG FREE WORKPLACE PROGRAM.** The VA Drug Free Workplace Program partners with the EAP. The Drug Free Workplace Program was established in response to Executive Order 12564 and its implementing legislation. The overall objectives of the EAP in relation to the Drug Free Workplace Program are to assist supervisors and managers in dealing with the consequences of their employees' illegal drug use and to assist employees in their efforts to overcome current drug use and refrain from future use. The EAP will provide its regular services in response to these objectives.

a. Employees may self-refer to the EAP under the safe harbor provision of the VA Drug Free Workplace Program. This provision protects employees from disciplinary actions that may otherwise be taken against employees found to be using drugs illegally. These employees must voluntarily admit their drug use before being identified through other means, must complete counseling/rehabilitation as determined by the EAP, and must not use drugs again.

b. The safe harbor provision cannot protect employees from disciplinary actions or random testing if they refuse to notify their supervisors that they are seeking help for their drug problems. It also cannot protect employees who have been found to use drugs illegally a second time.

**9. TREATMENT COSTS.** As with other illnesses, an employee is responsible for the cost of treatment and rehabilitation for alcohol and drug related or biopsychosocial issues. In many instances, an employee's Federal Employees' Health Benefits Plan will cover costs in full or in part. Coordinators and counselors should be familiar with the various services and rehabilitation programs, the coverage for plans under the Federal Employees' Health Benefits Plan, and the employee's ability to pay for the health benefits plan and/or treatment and rehabilitation costs. This information is important in the development of referral options for treatment and rehabilitation programs.

## **10. EAP RECORDS**

a. **Confidentiality.** All records maintained in connection with the performance of employee counseling services are subject to the confidentiality regulations in sections 523 and 527 of the Public Health Service Act. In addition, persons responsible for counseling and records maintenance functions are subject to these provisions and the stated penalties for violations.

b. **Records Maintenance.** EAP records are maintained under the authority of 5 U.S.C. 7361, 7362, 7901, and 7904; and, 42 U.S.C. chapter 2. EAP records are covered by the Privacy Act of 1974, 5 U.S.C. 552a, and the VA system of records titled "VA Employee Counseling Service Program Records - VA" (68VA05). Included in the notice for that system of records are policies and practices for storing, retrieving, accessing, retaining, and disposing of records. The EAP records are subject to the following requirements:

- (1) Records shall be maintained on any VA employee who has been counseled for abuse of alcohol or drugs or biopsychosocial issues.
- (2) The records of employee visits to an EAP Counselor shall reflect whether initial contact was through self, supervisory or other referral.
- (3) The records are used to document the nature of the employee's issue and/or problem, progress, and when necessary, referral of the employee to community or private resources for counseling, treatment or rehabilitation.
- (4) Paper records shall only be maintained in hard copy file folders by employee name, in locked file cabinets, with access limited to the employee assistance counselor or coordinator, as appropriate.
- (5) Except as applied to disciplinary or separation actions, personnel folders shall not include information concerning employee alcohol or drug abuse problems.

## **11. EDUCATION AND TRAINING**

a. In order to ensure implementation and administration of an effective program, a continuing, multifaceted training effort should be planned and carried out. The focal point of this effort must be a policy statement which clearly and concisely sets forth program responsibilities, counseling availability, and top management support.

b. At a minimum, training efforts must identify and deal with the varied participation and responsibilities of these key groups:

- (1) Top management support for program goals is evidenced by knowledge and understanding of legal, regulatory and policy requirements.
- (2) Supervisors must be trained in the fundamentals of the EAP and their roles and responsibilities related to work performance and/or conduct deficiencies, referrals to the EAP and the importance of maintaining confidentiality. All supervisors should be periodically provided training designed to meet these requirements.
- (3) Coordinators shall be informed of program requirements and procedures at time of selection and periodically thereafter.
- (4) Counselors' skills should be continuously upgraded through training opportunities designed for their specific EAP role.
- (5) Employees should be familiarized with program goals and availability at the time of initial

employment and periodically throughout their employment.

(6) Union leaders and union representatives will be included in briefing sessions and other training and orientation programs.

**12. ALTERNATIVES TO IN-HOUSE COUNSELING.** OMB Circular A-120 established the policy and guidelines that VA follows in determining the appropriate use of consulting services, which include EAP counseling services. In accordance with 5 U.S.C. 7361, it is VA policy to make optimal use of existing services, skills and personnel within VA. The EAP may be an in-house program with a dedicated staff or a contract may be established to provide those services.

**13. REPORTING REQUIREMENTS.** It is strongly recommended that facilities track EAP activities for any reporting requirements which may be established.