

STAFFING

1. **REASON FOR ISSUE:** To revise the Department of Veterans Affairs (VA) Handbook 5005, Part II, Chapter 3 to appoint year-long Associated Health Trainees under 38 U.S.C. § 7406 to authorize payment by Disbursement Agreements.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook revision contains mandatory VA procedures on staffing. This revision approves the appointment of year long Associated Health Trainees under 38 U.S.C. § 7406, and authorizes the payment mechanism for Disbursement Agreements for select Associated Health disciplines, that is currently available for payment to physician and dental residents. The legal authority for disbursement agreements is contained in 38 U.S.C. § 7406. The appointing authority of Associated Health trainees and residents to 38 U.S.C. § 7406 authorizes the use of disbursement agreements for managing the stipends and benefits of these trainees. Allowing the use of disbursement agreements for certain associated health disciplines eliminates existing disparities in stipends and benefits that occur when trainees rotate between VA and academic affiliates, and greatly simplifies administration and record keeping. This revised policy will be incorporated into the electronic version of VA Handbook 5005 that is maintained on the [Office of Human Resources Management Website](#).
3. **RESPONSIBLE OFFICE:** Recruitment and Placement Policy Service (059), Office of the Deputy Assistant Secretary for Human Resources Management.
4. **RELATED DIRECTIVE:** VA Directive 5005, Staffing.
5. **RESCISSIONS:** None.

CERTIFIED BY:

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

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PART II. APPOINTMENTS

CHAPTER 3. TITLE 38 APPOINTMENTS

SECTION A. GENERAL

1. SCOPE

- a. **General.** This chapter contains administrative requirements and procedures relating to the appointment of individuals to occupations identified in 38 U.S.C. [§] 7306, 7401(1), and 7401(3); and employees in those occupations who are appointed under 38 U.S.C. [§] 7405. This section also applies to medical support personnel appointed under authority of 38 U.S.C., chapter 73 or 74.

NOTE: All references throughout this handbook to occupations identified in 38 U.S.C. [§] 7401(3) includes those occupations not specifically listed in Section 7401(3) but approved for hybrid status by the Assistant Secretary for Human Resources and Administration in accordance with the provisions of paragraph 2 below. See Appendix III-O for a complete list of hybrid occupations.

NOTE: The requirement for professional standards boards to hybrid title 38 occupations throughout this handbook does not include: 1) Medical Support Assistant, GS-0679; 2) Medical Supply Technician (Sterile Processing), GS-0622; and 3) any occupations approved for hybrid status before or after the publication date of this policy. For policy and guidance on appointments and promotions pertaining to these occupations see Appendix U of this part.

- b. **Central Office Appointments.** Provisions of this section apply to Central Office employees in the occupations indicated in subparagraph a. who are appointed under 38 U.S.C. [§] 7306, 7401(1), 7401(3), or 7405. The terms “medical center officials” and “facility Director or designee” refer in Central Office to the Under Secretary for Health or designee.
- c. **Residents.** Medical, [], dental, [podiatry, optometry, and chiropractic] residents appointed under 38 U.S.C. [§] 7406, and [any] trainees appointed under 38 U.S.C. [§] 7405 are included within the scope of this section. The term resident as used in this chapter includes interns [and fellows].
- d. **Exception from the Competitive Service and the Provisions of 5 U.S.C. Chapter 51.** The appointments of persons under the authority of sections 7306, 7401(1), and 7401(3), and under sections 7405 and 7406 to occupations identified in those sections, are excepted from the competitive service and from 5 U.S.C. Chapter 51.

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support personnel appointed on a full-time or part-time basis under 38 U.S.C. [§] 7405(a)(1)(D). A medical resident may serve as an admitting physician on a fee basis in accordance with the criteria in VA Handbook 5007, Pay Administration. Paid trainees in medical support programs funded through the Office of [] Academic Affiliations may simultaneously hold part-time, intermittent, or fee basis appointments provided there is no violation of dual compensation restrictions, the trainee is determined to be the best qualified applicant, and the utilization as a trainee is consistent with the provisions of [VHA Handbooks 1400.01 through 1400.11]. Pharmacy residents appointed under 38 U.S.C. [§] 7405(a)(1)(D) [or 7406] may be appointed to another position under 38 U.S.C. [§] 7405 without regard to the restrictions in 5 U.S.C. [§] 5533.

- (3) Facility directors may appoint, on a lump-sum fee basis, full-time employees from other VA facilities employed in occupations listed under 38 U.S.C. [§] 7401(1), provided the criteria in paragraph [3].b.(4) of this part are met and such an appointment would not be contrary to Department conflict of interest regulations (38 CFR, part 0). Such appointments permit the use of full-time employees on a fee basis at a second VA facility, provided management officials at both facilities agree that the arrangement permits them to meet staffing needs; fees are paid on other than a time basis; and the arrangement results in an employer-employee relationship (5 CFR, part 304.). Facilities wishing to use this authority should identify the [] task they need accomplished and compensate the employee on a fee basis for the completion of that task. Appointment of full-time employees covered by 38 U.S.C. [§] 7401(1) on a fee basis at the same VA facility is not permitted. No consultant, attending, fee-basis, part-time, or intermittent employee will simultaneously hold more than one compensable appointment in VHA unless the outlined criteria are met. The restriction in the preceding sentence applies to appointment at the same facility or at more than one facility.
- (4) For individuals identified in subparagraph [3].b.(2), dual appointments may be approved by the facility Director, subject to the following conditions and restrictions:
 - (a) Services are essential to the health care needs of patients.
 - (b) No other equally qualified individual in the specific specialty is available in the locality.
 - (c) There is no violation of dual compensation statutes or VA policies.
- (5) For individuals identified in subparagraph [3].b.(2), the following dual appointments will be approved by the facility Director only in exceptional circumstances and if requirements in subparagraph [3].b.(4) are met. Officials will ensure that these appointments will not present or lead to a conflict of interest or the appearance thereof. Questions concerning conflict of interest matters may be directed to the Regional Counsel.
 - (a) Utilization as a consultant or attending in combination with employment on a part-time or intermittent basis at the same facility;

- (b) On-facility fee-basis appointment under the schedule of fees in combination with utilization as a consultant or attending at the same facility. (This subparagraph does not apply to outpatient services of off-facility fee-basis personnel in a private office or private clinic, even though consultant or attending services may be performed on the same day.)

- (3) **Graduate Technicians.** Following attainment of licensure or registration in a State or certification by the national certifying organization, a graduate technician selected for continued VA employment will be converted to an appointment in the appropriate occupation under 38 U.S.C. [§] 7401(1), 7401(3), 7405(a)(1)(A) or 7405(a)(1)(B). A Board Action is required, unless a temporary appointment is made pending further processing under provisions of section C, paragraph 7a of this chapter.

6. APPOINTMENT OF MEDICAL SUPPORT PERSONNEL UNDER 38 U.S.C. 7405(a)(1)

a. General

- (1) [38 U.S.C. §] 7405(a)(1) is primarily used to obtain the services of physicians, dentists, nurses and other individuals in occupations identified in 38 U.S.C. [§] 7401(1) and 7401(3). However, it may be used under certain conditions to obtain the services of medical support personnel in occupations other than those identified in 38 U.S.C. [§] 7401(1) and 7401(3). Appointments of medical support personnel, other than trainees and students, may be made on a temporary full-time basis for a period not-to-exceed 3 years, or on a part-time or intermittent basis for a period not to exceed 1 year. Full-time appointments under this authority may be renewed for one or more additional periods not in excess of 3 years each. Part-time and intermittent appointments are non-renewable. Appointments of associated health trainees and students in occupations other than those identified in 38 U.S.C. [§] 7401(1) and 7401(3) may be made on a temporary full-time basis not to exceed 3 years, or on a part-time or intermittent basis for a period of time consistent with individual training program requirements. (See subparagraph b.)
- (2) The use of this authority is desirable and appropriate for the employment of trainees accepted in VA associated health training programs; high school graduates and college students participating in the VHA summer employment program; students and others, particularly those engaged in the medical research programs, when it is determined impracticable to obtain the necessary services through regular competitive employment procedures. Under no circumstances may this authority be used to circumvent the competitive employment procedures, the competitive system pay limitations and the qualification requirements for competitive appointments.

b. Appointment of Associated Health Trainees

- (1) **Type of Appointment.** Appointments of trainees in VA associated health training programs are made by the facility Director under the authority of 38 U.S.C. [§] 7405(a)(1) on a full-time basis, not to exceed 3 years, or on a part-time or intermittent basis for a period [] consistent with individual training program requirements. (See [VHA Handbook 1400.08, Education of Associated Health Professions]) (See Section H for discussion of limited circumstances when associated health trainees may be appointed under 38 U.S.C. [§] 7406.)).
- (2) **Qualification Requirements.** Trainees must meet citizenship requirements and shall be qualified as prescribed in appendices II-D of this part. Requests for approval to

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appoint paid noncitizen trainees will be forwarded to the Assistant Deputy Under Secretary for Health (10N_/143). Without compensation (WOC) appointments of noncitizen trainees may be approved by the facility Director.

- (3) **Selection and Appointment of Candidates.** [Handbook 1400.08, Education of Associated Health Professions] sets forth the selection process and the approval authority for appointment of trainees.

- (4) **Appointment Action.** The HRM Officer, with the approval of the facility Director, will affect the appointment on SF 50-B. The type of action will be "Excepted Appointment NTE (date)".

c. Appointments of Other Medical Support Personnel

(1) Criteria for Approval of Appointments

- (a) Full-time appointments must be temporary not to exceed 3 years and are renewable for like periods. Part-time and intermittent appointments must be temporary not-to-exceed 1 year and are non-renewable.
- (b) Qualifications of appointees must be comparable to those required for competitive service employees performing similar duties.
- (c) Compensation must be commensurate with that paid to competitive service employees occupying similar positions which are subject to the requirements of 5 U.S.C., chapter 51. (See VA Directive and Handbook 5007.)
- (2) **Approval Authority.** Facility directors are authorized to approve appointments of medical support personnel, except for paid noncitizen associated health trainees. (see paragraph 3.b.(2) above).
- (3) **Documentation.** All appointments effected under the provisions of this paragraph will be properly documented to support the action.
- (4) **Processing.** Applicants will submit the OF 612 and OF 306 or the former SF 171 and will be processed for appointment in the same manner as other similar appointees.

7. ACCEPTANCE OF SERVICES ON A WITHOUT COMPENSATION BASIS UNDER 38 U.S.C. [§] 7405(a)(1)

- a. General.** The acceptance of the services of qualified individuals who may be directly or indirectly involved in patient care activities on a WOC basis is permissible. It is not intended that the services of individuals utilized on a WOC basis be accepted in place of those which are usually expected to be performed by personnel for whom funds are provided on a continuing basis.

b. Occupations Identified in 38 U.S.C. [§] 7401(1) and (3)

- (1) Authority for Appointment.** Services will be accepted under the authority of 38 U.S.C. [§] 7405(a)(1), except that [any resident requiring a disbursement agreement will be appointed under authority of 38 U.S.C. § 7406]. Appointments will be recommended by the Chief of Staff and approved by the facility Director. (See section B of this chapter for credentialing requirements).

(2) Processing

- (a) VA Forms 10-2850, 10-2850a, 10-2850b, 10-2850c, [or 10-2850d (for trainees)] as appropriate, will be submitted by individuals who desire to participate in the VA medical program on an uncompensated basis.

(b) VA Form Letter 10-294, Letter of Authorization, will be issued setting forth the terms of utilization. Following approval of the appointment by the facility Director, the letter will be signed by the individual attesting to agreement to the conditions specified, and countersigned by the HRM Officer. The form letter will be prepared in duplicate, with the original given to the employee and the duplicate filed in a location designated by the facility and later disposed of in accordance with existing VHA instructions.

c. Student Trainees, [Residents,] Research Personnel, and All Others.

(1) **Classes.** The classes of personnel who may be utilized on a WOC basis are:

(a) Medical and dental students who serve as clinical clerks.

(b) Nursing students who are enrolled in hospital, college or university schools of nursing and who are assigned for clinical experience and instruction.

(c) Students [and residents] from affiliated institutions who are in associated health care occupations, such as all physical medicine and rehabilitation therapists and coordinators, orientation and mobility specialists, social workers, psychologists, medical technicians or technologists, medical radiology technicians, hospital librarians, pharmacists, medical record librarians, dietitians, dental hygienists, dental assistants, dental laboratory technicians, and other occupations listed in [38 U.S.C. §] 7401(1) and 7401(3).

NOTE: Students in associated health care occupations who successfully complete an affiliated clinical education training program in a VA health care facility may be eligible for noncompetitive appointment under title 5 following graduation from an accredited institution of post-secondary education in accordance with 38 U.S.C. [§] 7403(g). (See appendix II-C, this part).

(d) Scientific and technical personnel and laboratory assistants who are utilized in a medical research program. Usually individuals utilized on this basis are employed by associated medical or dental schools or universities to engage in medical or dental research for which a grant has been made under [auspices of the VHA Office of Research and Development and their policies and procedures.]

(e) The facility Director is the approving authority for WOC appointments at facilities.

(2) **Full or Part-Time Utilization.** WOC appointments may be made on a temporary full-time or part-time basis, depending on the objective of the program.

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- (3) **Processing.** Employees should be processed and appointed as outlined in subparagraph b.(2). When a large group of students is to be appointed, facility directors may adapt the FL 10-294 to a mass action type document for appointment purposes provided they retain its basic content. Applications for employment need not be solicited unless they are needed to comply with the requirements of section A, paragraph 3, and/or credentialing requirements of section B, this chapter.

SECTION H.
APPOINTMENT OF MEDICAL, DENTAL, [\[AND OTHER\]](#) RESIDENTS
UNDER 38 U.S.C. [\[§\]](#) 7406

1. **GENERAL.** Medical and dental residents are appointed under authority of 38 U.S.C. § 7406 for graduate training leading to qualification in a specialty. (See [\[VHA Handbook 1400.09 Education of Physicians and Dentists\]](#) for policies relating to the establishment and maintenance of medical and dental residency programs in VA.). [\[Year-long associated health trainees such as podiatry, optometry, psychology, and others may be appointed as residents under 38 U.S.C. § 7406 if their program would benefit from utilization of a disbursement agreement as a payment mechanism.\]](#)
2. **METHODS OF APPOINTMENT AND COMPENSATION.** Medical and dental residents may be given full-time appointments and paid directly by VA through a direct stipend mechanism. (As indicated in [\[VHA Handbook 1400.09 Education of Physicians and Dentists\]](#), part-time appointments may not be used.) Residents may also be utilized on a WOC [\[\]](#) basis. Alternatively, when authorized pursuant to the [\[requirements in VHA Handbook 1400.05 Disbursement Agreements\]](#), they may be appointed and paid through a disbursement agreement with a medical school or other appropriate third party [\[disbursing agent\]](#). - [\[Appointments of trainees in associated health programs may be made under the authority of 38 U.S.C. § 7406 \(a\)\(1\) on a full-time basis. These specific training programs and facilities must be authorized by written approval of the Office of Academic Affiliations \(contact information may be found on the \[\\(Office of Academic Affiliation's Website\\)\]\(#\) to pay \[associated health\] trainees via the disbursement agreement mechanism.\]](#)
3. **APPOINTMENT DOCUMENTATION**
 - a. For residents paid directly by VA, the nature of action on the SF-50-B is [\[\]](#) "170 Excepted Appointment" [\[\]](#) with the following statement in "Remarks:" "This appointment is for the duration of this training unless sooner terminated and is subject to periodic review [\[by the VHA Associate Chief of Education/Designated Education Officer\]](#)."
 - b. Residents paid from disbursement agreements must have without compensation VA appointments. A sample appointment letter has been created for this purpose that can be downloaded from the [Office of Academic Affiliation's Website](#). A copy of this letter, [\[a completed 10-2850d form\]](#), and a completed Standard Form (SF) 61, Appointment Affidavit, will serve as the appointment documentation for residents with no prior federal service. These documents may be filed per local facility policy consistent with Privacy Act and Freedom of Information Act (FOIA) requirements. Residents with prior Federal service should be directed to the servicing Human Resources Management Office for any additional processing that might be necessary. Do not establish a personnel folder for, or process into the [\[HR Smart\]](#) system, residents covered by a full disbursement agreement unless the individual has prior Federal service and Civil Service Retirement System (CSRS) retirement coverage.

4. COMPENSATION

- a. **Conditions of Direct Compensation.** The VA medical center may [pay residents directly via stipend continuously during their residency program. VA does not recommend using intermittent appointment authorities to take residents on and off the payroll. Residents who are paid via direct stipend mechanisms must be replaced by a Without Compensation exchange resident if they rotate to other non-VA facilities.] The second option is to pay a resident under a without compensation