

HOURS OF DUTY AND LEAVE

- 1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) policy regarding the basic workweek for full-time physicians and dentists.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory procedures on hours of duty and leave. The pages in this handbook replace the corresponding page numbers in VA Handbook 5011. Revised text is contained in [brackets]. This change will be incorporated into the electronic version of VA Handbook 5011 that is maintained on the [Office of Human Resources Management Web site](#). Significant changes include:
 - a. Revises the procedures for scheduling the basic 40-hour administrative workweek and tour of duty for full-time physicians and dentists in order to cover extended service hours during evenings and weekends.
 - b. Clarifies the use of fee basis appointments.
- 3. RESPONSIBLE OFFICE:** Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources Management.
- 4. RELATED DIRECTIVE:** VA Directive 5011, Hours of Duty and Leave.
- 5. RESCISSIONS:** None.

CERTIFIED BY:

/s/
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Executive in Charge and Chief Information Officer
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**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
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PART I

3. DEFINITIONS

- a. **Accrued Leave.** The leave earned by an employee during the current leave year that is unused at any given time in that leave year.
- b. **Accumulated Leave.** The unused leave remaining to the credit of an employee at the beginning of a leave year.
- c. **Administrative Workweek.** The calendar week, Sunday through Saturday.
- d. **Alternate Work Schedules for Registered Nurses.**
- (1) **72/80 Work Schedule.** Six regularly scheduled 12-hour tours of duty wholly within a pay period that is considered for all purposes to be a full 80 hour pay period.
- (2) **9-Month Work Schedule.** Nine months part-time with three months off duty within a fiscal year, paid at 75 percent of the full-time rate for such nurse's grade and step each bi-weekly pay period of the fiscal year.
- (3) **Baylor Plan.** Two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek (Sunday and Saturday).

e. **Basic Workweek**

- (1) For full-time employees (other than physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, physician assistants (PAs) and expanded-function dental auxiliaries (EFDAs) appointed under 38 U.S.C. chapters 73 or 74), a basic workweek consists of a 40-hour workweek established in accordance with 5 CFR 610.111 and part II, chapter 2 of this handbook.
- [(2) For full-time physicians and dentists appointed under 38 U.S.C. chapters 73 or 74, the basic workweek consists of a 40-hour tour of duty during the administrative work week (i.e., Sunday through Saturday). The workday shall not be less than 2 hours and may not exceed 12 hours. The 40-hour tour of duty may vary each administrative workweek, but must be determined prior to the beginning of the workweek. The basic workweek shall be completed within the 7-day period from Sunday to Saturday and must not cross over into the following administrative workweek of the 80-hour bi-weekly pay period.
- (3)] Full-time physicians, dentists, podiatrists, chiropractors, and optometrists to whom the provisions of part II, chapter 3 of this handbook apply shall be continuously subject to call unless officially excused by proper authority. This requirement as to availability exists 24 hours per day, 7 days per week.
- [(4)] For full-time nurses, nurse anesthetists, PAs and EFDAs, [a] basic workweek [consists of] a 40-hour workweek established in accordance with the provisions of part II, chapter 3 of this handbook. A 72/80 Work Schedule and the Baylor Plan (24-hour) basic workweek established in accordance with the provisions of part II, chapter 3 of this handbook is applicable only to full-time nurses and nurse anesthetists. Employees under the 9-Month Work Schedule are considered part-time employees, except for purposes of health insurance per 38 U.S.C. 7456A(d)(4).

f. **General Leave Terms.** In administering 5 U.S.C. ch. 63, VA will observe the definitions in 5 CFR 630.201.

g. **Intermittent Employment.** This term refers to the employment of an individual under the provisions of 38 U.S.C. 7405 (a)(1)(A) on an intermittent basis.

h. **Irregular or Occasional Overtime Work.** Overtime work that is not regularly scheduled.

i. **Leave Year.** A leave year begins on the first day of the first full biweekly pay period in a calendar year and ends the day before the first full biweekly pay period in the following calendar year.

j. **Overtime Work and Overtime.** Definitions are the same as the definitions in 5 CFR 550.103(i) and 550.111 for General Schedule (GS) employees and non-U.S. citizen employees overseas. Overtime for title 38 employees is discussed in VA Handbook 5007, part V, chapter 2.

k. **Part-Time Employee.** An employee who performs a regular[ly scheduled] tour of duty on less than a full-time basis. Such an employee may be required to perform duty on an unscheduled basis in addition to the regularly scheduled tour of duty. Part-time physicians appointed under 38 U.S.C. 7405(a)(1)(A) may also be placed on Adjustable Work Hours (see Part II, Appendix I).

l. **Regular Overtime Work.** Any work qualifying as overtime work that is regularly scheduled in advance of the administrative workweek in which it occurs.

m. **Regularly Scheduled Administrative Workweek.** For full-time employees (other than physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, PAs and EFDAs appointed under 38 U.S.C. chs. 73 or 74), means the period within an administrative workweek, established in accordance with 5 CFR 610.111 and part II, chapter 3 of this handbook, within which these employees are required to be on duty regularly. For part-time employees (other than those appointed under 38 U.S.C. chs. 73 or 74), it means the officially prescribed days and hours within an administrative workweek during which these employees are required to be on duty regularly.

NOTE: *[Hours of work officially ordered or approved that are performed in excess of 8 hours per day, or 40 hours in an administrative workweek, constitutes overtime work for General Schedule and wage grade employees (5 U.S.C. 5542 and 5543).]*

n. **VA Work.** For guidance on determining whether the activities of VHA health care professionals constitute VA work, see chapter 3, paragraph 2g, of this part.

**CHAPTER 3. ESTABLISHMENT OF WORKWEEKS, TOURS OF DUTY, AND
WORK SCHEDULES FOR EMPLOYEES APPOINTED TO TITLE 38 POSITIONS****1. SCOPE**

a. **Coverage.** This chapter contains basic policies and instructions governing duty for full-time, part-time, intermittent and fee basis physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, physician assistants (PAs), and expanded-function dental auxiliaries (EFDAs) appointed under authority of 38 U.S.C., chapter 73 and 74.

b. **Covered employees.** Except as otherwise indicated in part III, chapter 3, paragraph 13 of this handbook, hours of duty provisions for full-time physicians and dentists contained in this chapter are applicable to full-time residents appointed under authority of 38 U.S.C. 7406. [The term “resident” as used in this paragraph refers to medical and dental residents.](#) As used in this chapter, any reference to “nurse(s)” includes nurse anesthetist but does not include the Chief Nursing Officer, Office of Nursing Services; and “employee(s)” includes those personnel indicated in subparagraph a (both full-time and part-time, unless otherwise specified).

c. **Excluded Employees.** This chapter does not apply to employees in occupations other than those indicated in subparagraph a above, and who are appointed under authority of 38 U.S.C. chapter 73 and 74, including employees appointed under 38 U.S.C. 7306 and title 38 hybrid employees appointed to positions listed in 38 U.S.C. 7401(3).

d. **Intermittent and Fee Basis Employment.** Persons employed on an intermittent basis, per annum fee basis, or lump-sum fee basis, under [the] authority of 38 U.S.C. 7405 are paid for actual service rendered and therefore their duty schedules shall be determined by procedural requirements issued by the Under Secretary for Health.

2. BASIC WORKWEEK AND OFFICIAL DUTY

a. **Basic Workweek.** Unless otherwise indicated, the "basic workweek" for full-time employees shall be 40 hours in length. The normal tour of duty within the 40-hour basic workweek shall consist of five 8-hour days, exclusive of the meal period. [Directors of field facilities, or their designees, are authorized to fix the hours of duty constituting the normal tours of duty within the 40-hour basic workweek.](#) [For full-time physicians and dentists appointed under 38 U.S.C. chapters 73 or 74, the basic workweek consists of a 40-hour tour of duty during the administrative work week (i.e., Sunday through Saturday). The workday shall not be less than 2 hours and may not exceed 12 hours. The 40-hour tour of duty may vary each administrative workweek, but must be determined prior to the beginning of the workweek. The basic workweek shall be completed within the 7-day period from Sunday to Saturday and must not cross over into the following administrative workweek of the 80-hour bi-weekly pay period.] Full-time physicians, dentists, podiatrists, chiropractors, and optometrists to whom the provisions of this chapter apply shall be continuously subject to call unless officially excused by proper authority. This requirement as to availability exists 24 hours per day, 7 days per week. However, full-time nurses and nurse anesthetists on the Baylor Plan shall be scheduled in advance for a 24-hour basic workweek in each administrative workweek. The basic workweek for nurses on the Baylor Plan shall consist of two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek, Sunday and Saturday.

**PART II
APPENDIX I**

frequently if there are indications that the type of appointment may not be facilitating the accomplishment of VA patient care or other work requirements.

b. Employment Authorities

(1) **Part-Time Appointments.** Physicians may be appointed on a part-time basis under Section 7405(a)(1)(a) of Title 38, United States Code. Part-time appointments normally imply regularly scheduled tours of duty that do not significantly change from one pay period to another. However, part-time physicians should be placed on adjustable work schedules if they have VA or non-VA patient care, research or educational responsibilities that make adherence to regularly scheduled tours of duty impractical. It is important to note that part-time appointments are only appropriate in situations where the physician's duties and responsibilities [will normally] be performed at the VA facility, regardless of whether the tour is fixed or adjustable. In [certain] situations [], other types of appointments or a mix of appointments may be more appropriate.

(2) Other Work Schedules or Appointments

(a) **Intermittent Work Schedules.** Employees may be employed on an intermittent basis when demand for their services varies over time. The advantage is that periods of employment may be tailored to varying needs for services. The drawback is that intermittent employees are not entitled to employee benefits. Intermittent employment also presumes services are provided at the VA facility. Employees utilized on an intermittent basis are only compensated when they provide services, they are placed on the applicable grade and rate of pay on the Physician and Dentist Base and Longevity Pay Schedule, and pay for such positions is limited to the rate of basic pay for Level V of the Executive Schedule.

(b) **Fee Basis Appointments.** [Individuals] may be appointed on a fee basis [appointment when health services are not otherwise readily available, when it is cost effective, or when the utilization is focused on the service or task to be performed rather than on a specific tour of duty.] For example, [a surgeon] may be appointed on a fee basis to [perform certain surgeries that occasionally may be required, and which cannot be performed by on-board employees]. Care must [] be exercised with these appointments, as facilities are [] responsible for ensuring employees provide the services for which they are compensated and that procedures are not generated solely for the purpose of generating fees. Fee basis appointments are also based on the employee providing specific services. This may be a problem in that fee basis employees would not generally be available to perform administrative tasks otherwise be performed by part-time employees (e.g., peer review, attendance at meetings).

(c) **Dual Appointments.** Individuals may be given more than one of the above appointments if that is the best way to secure the employee's services. However, the expectations concerning time and attendance need to be clear and, if fee basis is involved, the facility needs to ensure the services are actually being provided or that procedures are not generated solely for the purpose of generating fees. The rate of basic pay and fees payable to such individuals is limited to the rate of basic pay for Level V of the Executive Schedule. Additional information about dual employment may be found in VA Handbook 5005, Part II, Section A, Chapter 3, paragraph 3b.