

AFGE NATIONAL VA COUNCIL SECURES IMPORTANT NEW RIGHTS FOR VETERANS HEALTH ADMINISTRATION EMPLOYEES

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On May 5, 2010, President Obama signed into law the Caregivers and Veterans Omnibus Health Services Act of 2010 (Public Law 111-163). AFGE National VA Council (NVAC) supported this legislation because it contained a number of valuable personnel provisions and major improvements in health care and benefits for caregivers of disabled veterans, women veterans, and rural veterans among other provisions.

The AFGE National VA Council played a critical role in securing many of the personnel provisions in the law.

The personnel provisions are in Title VI ("Department Personnel Matters") unless otherwise indicated here.

SUMMARY OF KEY PERSONNEL PROVISIONS IN THE NEW LAW

Permanent Employment Rights for Part-Time RNs:

- P/T RNs now have the same rights as F/T RNs to become permanent employees after a two year probationary period.
 - F/T RNs retain their permanent status if they convert to a P/T schedule.
 - RNs appointed on a temporary, P/T basis will become permanent after a two year probationary period.
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- **Additional Pay for P/T Nurses:** Ensures that P/T nurses who work overtime, weekends, off shifts and on call earn additional pay on the same basis as F/T nurses.
 - **Elimination of CRNA Pay Cap:** Certified Registered Nurse Anesthetists can now receive locality pay that raises their pay above the pay cap for Nurse Executives.

- **Elimination of LPN/LVN/NA Pay Cap:** Licensed Practical Nurses, Licensed Vocational Nurses and Nursing Assistants have been added to list of VHA employees who can now receive special pay regardless of limit on increases in maximum pay rates in Section 7455 of Title 38.
- **RN Locality Pay Surveys: More Training and Transparency**
 - Provides education, training and support to medical center directors to properly implement the locality pay system.
 - Requires MC Directors to provide information on wage survey methodology to the Secretary, and to employees and their representatives upon request.
- **Limitations on Mandatory Nurse Overtime:**
 - RNs, LPN/LVNs, and NAs cannot be required to work more than 40 hours per week (24 hours if on AWS) or 8 hours per day (12 hours if AWS) except under emergency circumstances clearly spelled out in the law.
 - Prohibits discrimination or retaliation against nurses who refuse to work overtime in violation of the law.

Note: This extends overtime limits to other nursing provisions besides RNs. However, both limits in this law and the 2004 law (PL 104-445) may not be enforceable as long as managers can assert Section 7422 of Title 38 to refuse to bargain over schedules. Please check with NVAC attorneys regarding possible grievances based on Section A.2 of the Secretary's Decision Document which authorizes bargaining over "VA's failure to follow its own regulations and policies."

Weekend Duty: Repeals law that charges nurses 5 hours of leave for 3 hour absences during a 12 hour tour of duty.

- **Alternative Work Schedules:** The 2004 law authorized the VA to provide full-time pay for three 12 hour days. This clarifies that the VA is authorized to provide full time pay for six 12 hour work days within a 14 pay period.

Note: Very few VA medical centers currently offer AWS. As with mandatory overtime limits, management can still assert Section 7422 of Title 38 to refuse to bargain over the refusal to offer AWS. On a more positive note, this minor change in the law may encourage more facilities to use AWS by reinforcing Congressional intent to use AWS as a recruitment/retention tool. The new law also helps counter VA's arguments that AWS is difficult to implement because of payroll and scheduling problems.

- **Educational Assistance**
 - Education Debt Reduction Program (Section 301):
 - Restores use of Education Debt Reduction Program (EDRP) for retention of current employees, as well as recruitment of new employees.
 - Increases maximum EDRP payment amounts,
 - Allows for higher payments for clinicians working in rural areas and other areas with health professional shortages.
 - Establishes scholarship program for students training to be blind rehabilitation specialists; emphasis on outreach to minority students. (Section 302)
 - Establishes pilot program on financial incentives for VA physicians who have privileges at community hospitals in health professional shortage areas. (Section 306)
 - Extends Health Professionals Education Assistance Scholarship Program through the end of 2014.
 - Expands eligibility for educational assistance to all VHA employees appointed under Title 38 (both hybrids and pure Title 38).
 - Adds loan repayment program for clinical researchers from disadvantaged backgrounds.

- **Voice for Physician Assistants:** Establishes a full time Director of PA Services position at VA Central Office. (Section 514)

- **VA Police:** (Sections 1001-1004)
 - Expansion of authority including enforcement of federal law and state and local traffic and motor vehicle laws;
 - Establishes right to carry VA issued firearms while off VA property;
 - Establishes right to conduct investigations on or off VA property;
 - Increases uniform allowance.