Date

Dear Dr:

Upon the recommendation of the Dean’s Committee of the Mount Sinai School of Medicine of New York University and of the House Staff Review Committee of the James J. Peters Veterans Affairs Medical Center, we are pleased to offer you a PGY- position in Internal Medicine effective ______. This appointment is for the duration of twelve months, unless sooner terminated and is subject to periodic review by the House Staff Review Committee. This offer of appointment is subject to your passing the pre-employment physical examination. Graduates of Foreign Medical Schools must have the standard Certificate of the Education Council for Foreign Medical Graduates. Non citizens must submit a copy of a current H-1, J-1 (Exchange Visitor) or Immigrant Card (Alien Registration). Your annual salary will be $____ which will be received either from the New York Medical Alliance and/or Bronx VA Medical Center.

A. TRAINEE OBLIGATIONS

Trainee shall devote professional time and effort effectively to perform duties assigned by the Trainee’s Program Director or designee, and agrees:

(1) To perform satisfactorily the responsibilities and duties at the designated level of training, and such other services as may be required in the training program at the designated level of training.

(2) To comply with the administrative and professional policies, procedures, rules and regulations of Bronx VA Medical Center, and the affiliated institution to which he or she is assigned. These policies may change from time to time.

(3) To develop a personal program of self-study and professional growth with guidance from the teaching staff.

(4) To participate in safe, effective and compassionate patient care under appropriate supervision of senior colleagues (residents and fellows) and attending physicians commensurate with the level of training.

(5) To participate fully in the educational activities of the program, and as required, assume responsibility for teaching and supervising other residents and students.

(6) To participate, where appropriate, in institutional programs and activities involving the medical staff and residents.
(7) To participate, where appropriate, in institutional committees and councils, especially those that relate to patient care review activities.

(8) To comply with the infectious disease prevention policies of the affiliated hospitals.

(9) To seek appropriate professional help and care in case emotional or physical problems arise which might potentially affect the Trainee's ability to perform his or her obligations under this Agreement.

(10) To complete all records in a timely fashion.

(11) To conduct oneself professionally and be courteous at all times with the patients, colleagues and other hospital personnel.

(12) To comply with the policies contained in the How-To and Policy Manual.

(13) To adhere to ACGME institutional and program requirements.

(14) To abide by the Drug-Free Workplace Act of 1988 (Public Law 100-690). To report any potential substance abuse problem among house staff.

(15) To notify the Program Director of, and obtain prior written approval for, any employment or other professional activities outside the Hospital that trainee proposes to accept (“moonlighting”). Refer to: PM-11-197.

(16) To comply with policies addressing leaves of absence. The effects of prolonged leaves of absence on criteria for program completion will be assessed on individual bases by Program Director.

B. OTHER BENEFITS

DURING THE TERM OF APPOINTMENT, BRONX VA MEDICAL CENTER AND ITS AFFILIATES AGREE:

1. To provide hospital, health, and disability insurance benefits for residents and their families with coverage starting the first recognized day of their residency/fellowship programs, which requires a pre-tax payroll deduction, and Basic life insurance. – Refer to: VAMC Human Resources Management Program and www.opm.gov

2. To provide malpractice liability coverage under the Federal Employees Liability Reform and Tort Compensation Act, Title 28 United States Code (U.S.C.) 2679 (b)-(d). This includes liability insurance coverage for claims filed after the residency training is completed, if the claim refers to an event during the period of training.

3. To allow vacation time of 20 days per leave year, provided that the vacation schedule does not conflict with hospital policies and is approved by the Program Director. Trainee may not carry over unused vacation time to another year, and the J.J. Peters VA Medical Center will not pay the Trainee for unused vacation time upon separation of employment or the end of the Trainee's term or Agreement.
4. To provide access to counseling and psychological support services. In case of physical impairment and substance abuse rehabilitation services will be provided.

5. Residents on-call receive a key to the on-call room from our Security/Police Dept. (on-call room keys are signed out by the residents), have access to vending machines and are provided with box meals. Residents are provided with lab coats/jackets/scrubs from housekeeping/linen services.

Please refer to the How-To /Policy Memoranda (PM) 00-155, 00-307, 00-335, 00-309, 00-028, VA Directives 5021, 11-037, and the Mount Sinai House Staff Manual for information concerning the following benefit and administrative policies regarding counseling, psychological support services, and grievance and harassment policies.

Accommodation is made for residents with disabilities (policy# 00-028).

The reference documents are included with this contract and are available on the J.J. Peters VA Medical Center web site to which you will have access as a resident. The Mount Sinai House Staff Manual can also be found on the Mount Sinai School of Medicine web site but Mount Sinai regulations are superceded by VA regulations where there are conflicts in content with VA policies.

6. Please refer to Policy Memorandum 00-304/House Staff Manual for information regarding leaves of absence, including family and medical leave. Leaves of absence and the effect of the leave time on the completion of residency training and/or eligibility for specialty board examinations will be determined by the policies and procedures of the VA and the training program currently in effect.

7. The trainee will be reappointed to the next level of training at the Program Director’s sole, reasonable discretion. The Program Director will base the reappointment and promotion determinations on the trainee’s successful completion of his/her current training and the absence of pending disciplinary action against the trainee. Trainees will be notified in writing at least four months before the expiration of their appointment (no later than March 1 for appointments commencing July 1) if their contracts are not to be renewed for the next year of a given residency program or if they will not be promoted to the next postgraduate year of training. Notifications of nonrenewal or nonpromotion will include the reasons for the action and are subject to the grievance procedure found in Policy Memorandum 00-307.

Acceptance of the appointment indicates your agreement to abide by hospital rules and regulations and to perform conscientiously all assigned duties. It should be noted that resident duty hours are limited to 80 hours per week inclusive of all in-house call activities and all moonlighting. Residents are provided 1 in 7 days free of all educational and clinical
responsibilities when averaged over 4 weeks. There is minimum of a 10 hour period between daily duty responsibilities and in-house calls for all trainees. In-house call does not exceed more than 16 consecutive hours for PGY1 trainees and 24 consecutive hours for PGY2 and PGY3 trainees, but the resident may remain on their own initiative on duty for up to 6 additional hours to participate in didactic activities, transfer care of patients, or to continue to provide care to a single severely ill or unstable patient. All such instances must be reported to the program director who will review and track both individual resident and program wide episodes of additional duty. The resident will not be assigned additional clinical responsibilities after 24 consecutive hours on call. The frequency of in-house calls will be no more than every third night. The frequency of in-house night float rotations will not exceed 6 nights per week with no more than 4 consecutive weeks of night float at the time.

Please signify your acceptance of this offer by signing the duplicate of this letter and returning it to the Office of the Director, Graduate Medical Education within 1 week.

Sincerely yours,

MaryAnn Musumeci,
Director

I accept the above offered appointment.

______________________________  ________________
Signature                   Date

Addenda:

1. Mount Sinai/VA House Staff Manuals.
2. Equal Employment Opportunity Policy and Program Administration (VA Medical Center Policy Memorandum 00-28; attachments A through H).
3. Principles of Ethical Conduct for Government Officers and Employees (VA Medical Center Policy Memorandum (00-335)
4. Employee Uniform Issue and Uniform Allowance (VA Medical Center Policy Memorandum 00-155).
5. Leave Program Administration (VA Medical Center Policy Memorandum 00-304; attachments 1 through 3).
6. Administrative Grievance Procedure (VA Medical Center Policy Memorandum 00-307).
7. Employee Assistance Program (VA Medical Center Policy Memorandum 00-309).
1. POLICY:

A. It is the policy of the Bronx VA Medical Center to fully support National and the Department of Veterans Affairs Equal Employment Opportunity/Affirmative Employment Programs and to advise employees of medical center policy to achieve full realization of equal employment opportunity for all persons without regard to race, color, religion, national origin, sex, or sexual orientation, age, disabling condition or reprisal for prior EEO complaint involvement. These programs will be implemented with a sincere and personal commitment.

B. All employees and applicants for employment will receive fair and equitable treatment in all aspects of personnel management consistent with merit principles.

C. A continuing Affirmative Employment Program will be implemented to achieve optimal representation in the Medical Center workforce of minorities, women, persons with disabilities, and Vietnam-Era Veterans; and to assure that these groups receive positive consideration for, training, career development, reassignment, promotion and retention.

D. Complaints of discrimination will be processed in a fair, timely and impartial manner.

E. Program policies will be communicated to all employees, to recognized employee organizations and to interested community groups.

2. RESPONSIBILITIES:

A. The Medical Center Director as the CHIEF EXECUTIVE OFFICER is responsible for the full implementation of the overall EEO program at this Medical Center. The Medical Center Director will appoint members to the EEO/Human Goals Committee as well as the Special Emphasis Program Managers.

B. EEO Manager serves under the general direction of and has direct access to the Medical Center Director on all matters related to Equal Employment Opportunity and Affirmative Employment. (See Attachment “A”)

C. Patient Care Center Directors are responsible for establishing and ensuring that equal opportunity benefits are provided for all personnel and applicants for employment within their programs. It is their responsibility to ensure that the present job related skills of each employee are used to the maximum extent possible; to provide maximum opportunity for all employees to increase their skills; to assure that subordinate managers and supervisors receive adequate guidance and training, fully understand, appreciate, respond positively and adhere to the requirements of the Equal Employment Opportunity Programs at the medical center.
D. Program Chiefs, Other Managers and Supervisors are required to ensure that equal opportunity considerations are given to all personnel. They are to:
   1) Analyze employment patterns and conditions in their organizational units to determine any real or potential problem areas that act as barriers to equal employment opportunity and to take appropriate measures to eliminate such barriers.
   2) Evaluate all appointment, assignment, promotion and training practices within their operations to assure that all selections are based on merit and fitness of the individual without regard to race, color, religion, national origin, sex, age or disability.
   3) Aggressively seek out qualified employees who they believe have potential for development and to provide equal opportunity for training, reassignment or other means for improved employee utilization.
   4) Assure that the lines of communication are open to all employees under their supervision on an equal basis.
   5) Make sincere efforts to understand cultural differences among subordinates. Make similar efforts to understand any particular adjustment problems of minorities, females and persons with disabilities. Make reasonable accommodations where needed, consistent with Equal Employment Opportunity Commission’s (EEOC) guidelines and applicable statutes and regulations for persons with disabilities and for the religious needs of employees.
   6) Support employees under their supervision who are appointed to collateral duty EEO Program assignments, adjust work schedules and workloads as necessary, and otherwise make every reasonable accommodation to ensure that such EEO Program personnel are free and available to carry out their collateral responsibilities.

E. Equal Employment Opportunity Counselors are available to counsel employees and applicants for employment who have reason to believe that they have been discriminated against because of race, color, religion, national origin, sex, including sexual harassment, age or disability. They will facilitate the resolution of complaints on an informal basis before a formal complaint of discrimination is filed. Contact must be made with one of the EEO Counselors regarding the alleged discrimination before a formal complaint is filed. EEO COUNSELORS ARE HOUSED AND MAY BE ACCESSED THROUGH THE OFFICE OF RESOLUTION MANAGEMENT (ORM) IN LYONS, NJ, 1-888-737-3361.

F. ALTERNATE DISPUTE RESOLUTION (ADR) – THE BRONX VA MEDICAL CENTER IS COMMITTED TO ASSISTING EMPLOYEES IN FINDING CREATIVE, ACCEPTABLE SOLUTIONS TO DISPUTES AND ENCOUORGAS THE USE OF MEDIATION AS AN ALTERNATIVE APPROACH TO RESOLVING EEO COMPLAINTS. ADR/EEO FACILITATORS WILL BE AVAILABLE AS NEUTRAL THIRD PARTIES TO ASSIST TWO OR MORE PARTIES TO NEGOTIATE AN AGREEABLE SOLUTION TO EEO DISPUTES. THIS PROGRAM IS FURTHER DELINEATED IN ATTACHMENT “B”.

G. EEO/Human Goals Committee - The Medical Center Director will appoint individuals to serve on this committee which will function in an advisory capacity to the Medical Center Director in the areas of EEO and Affirmative Employment. Committee membership is based in part on:
   1) Recommendations from employees, employee groups, managers and supervisors.
   2) Self nominations - interested employees making their interest known to the Medical Center Director directly, through the EEO Manager or other channels. The responsibilities of this Committee are delineated in Attachment “C”.

2
H. Federal Women’s Program (FWP) Manager and FWP Committee - The FWP Manager is appointed by the Medical Center Director with the following responsibilities:

1) Serves as the central point of contact within the medical center to promote understanding of the FWP.
2) Coordinates agency and medical center policy and activities that are related to equal employment opportunity for women.
3) Evaluates adequacy of the Medical Center EEO Program, making recommendations for improvement.
4) Serves as the medical center representative to consult and confer with public and private groups and individuals concerned with the improvement of employment opportunities for women.

A FWP Committee or task force may be constituted on an as-needed basis to assist the FWP Manager. The responsibilities of the FWP Manager and FWP function are further delineated in Attachment “D”.

I. Hispanic Employment Program (HEP) Manager - The HEP Manager is appointed by the Medical Center Director to oversee the special concerns of Hispanics and to assure that specific actions are taken to provide equal opportunity in all aspects of the total EEO Program.
1) Serves as the principal point of contact between the VAMC and the Hispanic Community on employment matters.
2) Advises management on issues and problems relative to Hispanics at this medical center.
3) Identifies existing and potential barriers to equal opportunity for Hispanics.
4) Assists in the development, evaluation and monitoring of affirmative employment plan items, with emphasis on positive plans of action designated to promote equal opportunity in employment for Hispanics. The responsibilities of the HEP Manager are further delineated in Attachment “E”.

J. Persons with Disabilities/Disabled and Vietnam Era Veterans Program (PDP) Manager is appointed by the Medical Center Director to coordinate and monitor a pro-active Persons with Disabilities/Disabled/ Vietnam Era Program pursuant to Section 501 of the Rehabilitation Act of 1973 as amended and Section 403 of the Vietnam Era Veterans Re-adjustment Assistance Act of 1974. The Medical Center Director will appoint, as needed, a committee that will act in an advisory capacity to top management on issues or problems related to this program. The responsibilities of the PDP are delineated in Attachment “F”.

K. Federal Equal Opportunity Recruitment Program (FEORP) - A requisite part of the Affirmative Employment Program is to improve the representation of minorities and females and establish the development of broad applicant pools for hard-to-fill, underrepresented, non-traditional occupations and higher level positions. The Medical Center’s Human Resources Management Program will coordinate special outreach recruitment efforts, i.e., distribute vacancy announcements to organizations with minority and female clientele. A supplemental FEORP Program Plan may be developed and implemented to meet the requirements of FPM 720-2.

L. All employees are required to support the EEO Program in the performance of official duties, to assure equal respect, equal treatment and equal service for all persons without regard to race, sex, religion, national origin, age or disability.
M. Evaluating Supervisory Performance in EEO - Program Chiefs, Managers and Supervisors will be held fully accountable for the promotion of and adherence to the principles and programs enunciated by this policy memorandum. EEO is an integral part of the yearly performance evaluation of Program Chiefs, managers, and supervisors.

3. PROCEDURES:

A. Pre-complaint Processing

1) An employee or applicant who believes he/she has been discriminated against may consult with an Equal Employment Opportunity (EEO) Counselor if he/she wishes to seek corrective action. The contact must be made with the counselor within forty-five (45) calendar days of the alleged act or personnel action causing the individual to believe that discrimination has occurred. The identity of an aggrieved party will not be made known by a counselor unless authorized by the aggrieved until a formal complaint has been filed. Individuals will be advised by the counselor of the right to representation at any stage of the complaint process. EEO COUNSELORS ARE HOUSED AT THE OFFICE OF RESOLUTION MANAGEMENT (ORM) IN LYONS, NJ, AND MAY BE ACCESSED THROUGH 1-888-737-3361.

- All employees have the first option to seek resolution of EEO disputes through the EEO/Alternate Dispute Resolution (ADR) program. Employees must contact their supervisor, an ADR facilitator or EEO manager for guidance in this regard.

2) When advised of a complaint, ORM’s EEO Counselors are expected to:

a) Make whatever informal inquiry is necessary, including examination of records, interviews with employees, supervisors or management officials, etc. In the conduct of the inquiry, the counselor will be free from restraint, interference, coercion or reprisal.

b) Seek a resolution on an informal basis.

c) Counsel the aggrieved person regarding the issues in the matter.

d) Document all activity thoroughly in writing, including specific times, dates, individuals contacted, reasons for contacts, etc.

e) Make recommendations to the Medical Center Director if the complaint cannot be resolved at a lower level. The Medical Center Director will consider these recommendations and alternate resolutions if applicable, during pre-complaint processing.

f) Conduct the final interview, and issue notification, insofar as is practical, but not later than thirty (30) days after the date of initial contact. If a resolution has not been reached, the complainant shall be informed in writing of his/her right to file a formal complaint of discrimination. The counselor will explain to the complainant the formal complaint process.

g) When advised that a complaint of discrimination has been accepted, submit a written report to the Medical Center Director with copies to the aggrieved person or his/her representative, summarizing efforts made to resolve this matter. Documentation must be complete, including specific times, dates, individuals contacted, reason for contacts and results achieved.

h) When an aggrieved person has named or otherwise identified an “alleged offender” or “Respondent Management Official” (RMO), the EEO Counselor must solicit the views of the “RMO”. Prior to the counselor’s interview, the “RMO” must be advised that he/she has been named or identified by a potential complainant, must be informed of the nature of any accusations
made, and must be advised of the right to have a representative present during the interview to provide advice on how to respond to any questions the counselor may ask.

B. Filing and Presentation of a Complaint - A complaint may be accepted if the following requirements are met:

1) It is submitted in person or by mail, signed and dated by the complainant and directed to:
   DEPT. OF VETERANS AFFAIRS
   OFFICE OF RESOLUTION MANAGEMENT
   C/O VA NEW JERSEY HEALTH CARE SYSTEM
   LYONS CAMPUS
   151 KNOLLFCROFT ROAD, BLDG. 16
   LYONS, NEW JERSEY 07939

2) The matter was brought to the attention of an EEO Counselor within forty-five (45) calendar days of the date of the alleged incident, (or, if a personnel action, within forty-five (45) calendar days of the effective date of such action).
3) The complainant or designated representative must have submitted the formal written complaint within fifteen (15) days following the notice of final interview.
4) The issues must be sufficiently defined so that they may be investigated under applicable law.

C. Dismissal of Complaint
   1) THE OFFICE OF RESOLUTION MANAGEMENT, LYONS, NJ, MAY DISMISS A COMPLAINT ON PROCEDURAL GROUNDS, i.e., if:
      a) It was not filed in a timely manner.
      b) It does not fall within the purview of the discrimination complaint regulations or presents identical matters as contained in a previous complaint filed by the same complaint.
      c) Failed to pursue the matter to completion.
      d) The complainant failed to provide sufficient information to clarify the complaint.
   2) ORM IS CHARGED WITH FINAL AGENCY DECISION AUTHORITY ON PROCEDURAL DISMISSALS. THE OFFICE OF EMPLOYMENT DISCRIMINATION COMPLAINT ADJUDICATION (OEDCA), WASHINGTON, DC, IS CHARGED WITH MERIT DISMISSALS AND FINAL AGENCY ACTIONS ON THE MERITS OF A COMPLAINT.

D. Complaint Withdrawal - The complainant may withdraw his/her complaint during any stage of the processing procedure prior to the issuance of a decision by VA OEDCA. The withdrawal should be submitted in the form of a memorandum to the OFFICE OF RESOLUTION MANAGEMENT which will assure that the intent to withdraw is clearly expressed over the complainant’s signature. The reasons for withdrawal will be included.

E. Investigation - The OFFICE OF RESOLUTION MANAGEMENT, LYONS, NJ, will provide for the prompt investigation of the complaint.

F. Offer of Hearing
1) The agency (ORM) will furnish the complainant or his/her representative with a copy of the investigative and file promptly and will provide a notice of rights pursuant to 29 CFR 1614 including a right to a hearing before the U.S. Equal Employment Opportunity Commission.

2) If the complainant does not notify the OFFICE OF RESOLUTION MANAGEMENT of his/her wishes within prescribed timeframes, they will forward the investigative record and report to the Director, OEDCA, and request a Final Agency Decision.

G. Hearing
1) If a hearing has been requested, the OFFICE OF RESOLUTION MANAGEMENT will request an Administrative Judge be assigned by the EEOC District Office. THE DISTRICT COUNSEL ACTS AS MANAGEMENT’S REPRESENTATIVE.

2) As soon as possible after completion of the hearing, the Administrative Judge must forward the complaint file (including the hearing record), findings, analyses and recommendations to the VA OEDCA.

H. Decision by VA OEDCA - The VA OEDCA shall make the decision of the Agency on a complaint file. The decision will be in writing to the complainant and his/her representative and to the Medical Center Director concerned. The decision shall require any remedial action consistent with law determined to be necessary or desirable to resolve the issues of unlawful discrimination and to promote the policy of equal employment opportunity, whether or not unlawful discrimination is found.

I. Freedom from Reprisal or Interference
1) Complainants, their representatives and witnesses shall be free from restraint, interference, coercion, discrimination or reprisal at any stage in the presentation and processing of a complaint.
2) A complainant, representative or a witness who alleges restraint, interference, coercion, discrimination or reprisal in connection with the presentation of a complaint may file a complaint as noted above or file a charge within fifteen (15) days of the alleged occurrence. The Medical Center Director will promptly inform the OFFICE OF RESOLUTION MANAGEMENT of the receipt of such a complaint. Final agency decision will be made by the VA OEDCA. Appropriate disciplinary action will be taken where the charges are sustained.

J. Age Complaints - EEO law provides an opportunity for aggrieved persons to file civil actions directly when based on age (over 40 years of age) after giving EEOC thirty (30) days notice of intent to sue.

K. Sexual Harassment undermines the integrity of the Federal Government and will not be condoned. Merit system principles require that all employees be allowed to work in an environment free from sexual harassment. A supplemental policy and action plan for its prevention has been developed and implemented. (See Attachment “G”).

L. Restrictions on Dual Processing - In all actions directly appealable to the Merit Systems Protection Board (MSPB) or grievable under section 7121 of the Federal Labor Management statute in which discrimination is alleged, the appellant must elect whether the case will be heard under the discrimination complaints procedure or those other applicable appellate regulations. In whichever
forum a written grievance/complaint is filed on a matter first, such will be deemed the forum of choice for the prosecution the complaint.

M. Class Complaints

1) A class complaint is a written discrimination complaint filed on behalf of a class of people by an agent of the alleging group in cases where the class believes that it has been adversely affected by management practice or policy, based on race, color, religion, sex, national origin, age and/or handicapping condition.

2) A class is a group of agency employees, former agency employees and/or applicants for employment with the agency, on whose behalf it is alleged that they have been, are being or were adversely affected by an agency personnel management practice or policy which discriminates against the group on the basis of those factors listed above. On matters involving class complaints, consultation with an EEO Counselor is required.

4. REFERENCES:

   PL 105-114
   Executive Order 11478, dated August 8, 1969
   Public Law 92-261, dated March 24, 1972, Section 717
   Public Law 93-259, dated May 1, 1974, Section 15
   Federal Facts 10, OPM dated January 1977
   Federal Personnel Manual, Chapters 294, 300, 315, 332, 335, 410, 711, 713, 752
   Federal Personnel Manual Supplement 990-1, Book 1, Chapter 71, Subchapter 11,
   Section 7151, Book III, Part 713
   VA Manual MP-7, Part I
   EEO-MD 704, dated September 23, 1980;
   EEO-MD 706, dated July 1, 1980;
   EEO-MD 712, dated March 29, 1983;
   29 CFR 1614
   EEO-MD 705, dated July 1, 1980;
   EEO-MD 707, dated January 23, 1981;
   EEO-MD 714, dated July 1, 1990
   Administrative Dispute Resolution Act, 5 U.S.C. 582, 1990

5. RECISSION:

   Policy Memorandum 00-028 dated October 1, 2006

6. POLICY FORMULATION:

   Director’s Office (00/EE0)
ATTACHMENT:

A. Responsibilities of the Equal Employment Opportunity (EEO) Manager
B. Alternate Dispute Resolution/EEO Mediation Program
C. Responsibilities of the EEO/Diversity Management Committee
D. Responsibilities of the Federal Women’s Program (FWP) Manager
E. Responsibilities of the Hispanic Employment Program Manager
F. Responsibilities of the Persons with Disabilities/
   Vietnam Era Veterans Program Manager (PDP/DVPM)
G. Policy and Plan for the Prevention of Sexual Harassment
H. Official Time With Respect To EEO Complaints
RESPONSIBILITIES OF THE EQUAL EMPLOYMENT OPPORTUNITY (EEO) MANAGER

1. GENERAL: The Equal Employment Opportunity MANAGER has a major responsibility for spearheading, developing, administering and evaluating the Equal Employment Opportunity Program. The EEO MANAGER is the principal advisor to the Medical Center Director on equal employment opportunity and related manners.

2. RESPONSIBILITIES: The Equal Employment Opportunity MANAGER or his/her representative will be assigned to boards and committees, and will participate in review of all medical center personnel administration policies and programs, advising the Medical Center Director relative to their impact on the Department of Veterans Affairs policy to overcome under-representation of minorities and women and to promote equal employment opportunity for all. Other responsibilities are as follows:

- Develops Medical Center Policy instructions and notices on all aspects of equal employment opportunity INCLUDING A PROGRAM ON ALTERNATE DISPUTE RESOLUTION (ADR) WITH RESPECT TO EEO. EEO MANAGER WILL ACT AS THE PRINCIPAL ADR COORDINATOR.
- Provides leadership with the medical center line and staff personnel in the development of affirmative action plans and establishment of immediate and long range goals pursuant to federal guidelines.
- Accompanies the Medical Center Director (or serves as his/her representative) to meetings and conferences relating to equal employment opportunity (including community activities).
- Coordinates EEO related activities with personnel officials, public affairs officers, and other medical center personnel as appropriate.
- Participates in the development of equal employment opportunity training for supervisory development, in the development and administration of the medical center career development programs.
- Provides orientation to all new employees to thoroughly acquaint them with aspects of the EEO program.
- Devises and implements methods for monitoring progress of minorities and women in the medical center workforce.
- Keeps current on the status of formal discrimination complaints in process; takes action to expedite complaints processing, seeking the assistance of the Medical Center Director and/or medical center staff when necessary.
- Participates in medical center’s self-evaluation of personnel administration, through special surveys.
- Schedules and arranges meetings both on and off station with community action organizations.
- Assists the MEDICAL CENTER DIRECTOR in the selection of Special Emphasis Program Managers, EEO/Human Goals committee members, and provides them training and guidance in carrying out their assigned responsibilities.
- Prepares and/or coordinates the development of required reports on equal employment opportunity to VACO.
- Reviews supervisory/managerial performance appraisals in EEO. After review, a listing with appropriate comments/recommendations will be made and forwarded to the Medical Center Director for approval and appropriate action. Insures that supervisory/managerial personnel have been provided with a specific performance standard in their annual performance appraisal plan.
regarding their support for and functional responsibilities of subordinate staff regarding the EEO Program.

- Serves as the point of contact for complaints involving sexual harassment.

- Delegated full responsibility as Liaison with ORM for administratively processing all equal employment (EEO) complaints of discrimination, including sexual harassment.
- Protects the anonymity of the aggrieved person, employee, ex-employees or applicants for employment, until such time as a formal complaint is filed.
- Meets with assigned investigator, providing him/her with points of contact to facilitate investigations.
- Serves as EEO representative at selection boards/panels of key positions.
1. PURPOSE: TO ESTABLISH THE POLICY AND PROCEDURES FOR THE ADMINISTRATION OF THE BRONX VA ALTERNATE DISPUTE RESOLUTION (ADR)/EEO MEDIATION PROGRAM.

2. POLICY: THE BRONX VA MEDICAL CENTER IS COMMITTED TO ASSISTING EMPLOYEES IN FINDING CREATIVE, ACCEPTABLE SOLUTIONS TO DISPUTES AND ENCOURAGES THE USE OF MEDIATION AS AN ALTERNATIVE APPROACH TO RESOLVING EEO DISPUTES. THIS INCLUDES, BUT IS NOT LIMITED TO, DISPUTES THAT MAY BE FILED IN A FORMAL FORUM SUCH AS THE AGENCY’S EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROGRAM, MERIT SYSTEMS PROTECTION BOARD APPEALS (MSPB), GRIEVANCES (NEGOTIATED AND AGENCY PROCEDURE) INCLUDING ARBITRATION THROUGH THE FEDERAL LABOR RELATIONS AUTHORITY (FLRA). THE BRONX VA ADR/EEO MEDIATION PROGRAM IS ADMINISTERED BY THE EEO PROGRAM MANAGER.

3. RESPONSIBILITIES: ADR/EEO MEDIATION IS A PROCESS WHERE A TRAINED NEUTRAL THIRD PARTY ASSISTS TWO OR MORE PARTIES TO NEGOTIATE A MUTUALLY AGREEABLE SOLUTION TO THEIR DISPUTE. EEO/ADR MEDIATION IS VOLUNTARY, INFORMAL AND CONFIDENTIAL. BOTH PARTIES MUST AGREE TO MEDIATE; EITHER PARTY MAY TERMINATE THE MEDIATION PROCESS AT ANY TIME. ADR/EEO MEDIATION EMPHASIZES EARLY INTERVENTION AND PROBLEM SOLVING RATHER THAN A LONG ADVERSARIAL PROCESS. EMPLOYEES MAY ELECT TO HAVE A PERSONAL REPRESENTATIVE OR AN ATTORNEY AT ANY STAGE OF MEDIATION.

A. ADR/EEO FACILITATORS: A CADRE OF ADR/EEO FACILITATORS WILL BE APPOINTED BY THE MEDICAL CENTER DIRECTOR WITH INPUT FROM THE BARGAINING UNITS (AFGE, LOCAL 1168 AND NYNSA) AND OTHER STAKEHOLDERS TO ASSIST EMPLOYEES RESOLVE EMPLOYMENT RELATED DISPUTES THROUGH THE USE OF MEDIATION.

B. THE MEDICAL CENTER DIRECTOR IS RESPONSIBLE FOR APPROVAL, ESTABLISHMENT AND CONTINUANCE OF AN ADR/EEO MEDIATION PROGRAM AT THIS MEDICAL CENTER AND AFFILIATED OUTPATIENT CLINICS AND FOR DESIGNATING APPROPRIATE STAFF TO ADMINISTER THE PROGRAM. IN THOSE CASES IN WHICH THE PROVISIONS OF THE MEDIATED AGREEMENT GO BEYOND THE SCOPE OF AUTHORITY OF THE PCCD OR PROGRAM CHIEF, FINAL APPROVAL/DISAPPROVAL OF THE MEDIATED AGREEMENT WILL BE BY THE MEDICAL CENTER DIRECTOR OR DESIGNEE.

C. PCC DIRECTORS ARE RESPONSIBLE FOR MAINTAINING AWARENESS AND COMMITMENT TO EEO/ADR MEDIATION AS A VOLUNTARY, ALTERNATE FORM OF RESOLUTION IN DISPUTES THAT ARISE WITHIN THEIR PROGRAMS. THEY ARE TO ENSURE THAT PROGRAM SUPERVISORS MEET THEIR OBLIGATION TO FULLY SUPPORT MEDIATION EFFORTS INVOLVING EMPLOYEES.

D. SUPERVISORS ARE RESPONSIBLE FOR MAINTAINING AN AWARENESS OF ADR/EEO MEDIATION AS AN ALTERNATE FORM OF RESOLUTION IN DISPUTES THAT ARISE WITHIN THE WORKPLACE AND FOR COOPERATING TO THE FULLEST EXTENT IN ANY MEDIATION EFFORTS THAT INVOLVE THEMSELVES AND/OR EMPLOYEES THEY SUPERVISE.
E. EMPLOYEES ARE RESPONSIBLE FOR CONSIDERING MEDIATION AS AN ALTERNATE FORM OF RESOLUTION IN DISPUTES THAT ARISE WITHIN THE WORKPLACE. CONSIDERATION TO THIS METHOD MAY BE GIVEN PRIOR TO INITIATION OF ANY FORMAL METHOD OF DISPUTE RESOLUTION (E.G., EEO COMPLAINTS, GRIEVANCES, MSPB APPEALS) OR AT ANY TIME DURING THE PROCESS OF FORMAL METHODS.

4. PROCEDURES:

A. INITIATING MEDIATION: REQUESTS FOR INFORMATION OR ASSISTANCE CONCERNING MEDIATION MAY BE INITIATED BY CONTACTING THE ADR/EOO MEDIATION MANAGER OR AN ADR/EOO FACILITATOR. EITHER PARTY TO A DISPUTE MAY INITIALLY REQUEST ADR/EOO FACILITATION. HOWEVER, BOTH PARTIES MUST AGREE TO THE PROCESS PRIOR TO SCREENING BY THE ADR/EOO MEDIATION MANAGER. EMPLOYEE MAY CONTACT ANY ADR/EOO FACILITATOR TO INITIATE MEDIATION OF AN EMPLOYMENT RELATED DISPUTE. ADR/EOO MEDIATION UTILIZES THE FOLLOWING METHOD:

1) IF A REQUEST HAS BEEN MADE TO INDIVIDUALS OTHER THAN THE ADR/EOO MEDIATION MANAGER THE INDIVIDUAL RECEIVING THE REQUEST FOR MEDIATION MUST IMMEDIATELY CONTACT THE ADR/EOO MEDIATION MANAGER SO THAT WRITTEN REQUESTS CAN BE COMPLETED. ALL PARTIES TO THE DISPUTE MUST SIGN THE REQUEST FOR ADR/EOO MEDIATION FORM.

2) IF A CASE IS APPROPRIATE FOR MEDIATION, THE ADR/EOO FACILITATOR WILL MEET WITH THE DISPUTING PARTIES TO ASSIST WITH COMMUNICATING POINTS OF VIEW IN CONTENTION AND DEVELOPING AN ACCEPTABLE RESOLUTION OF THESE ISSUES.

3) WHEN A MUTUALLY ACCEPTABLE AGREEMENT IS REACHED, A FORMAL BINDING AGREEMENT IS PREPARED FOR THE PARTIES TO SIGN. CONTENTS OF THIS AGREEMENT ARE CONFIDENTIAL. THE TERMS OF THE AGREEMENT WILL ONLY BE REVEALED TO THOSE NEEDING INFORMATION IN ORDER TO PROCESS ANY CONDITION AGREED UPON DURING THE MEDIATION.

B. CERTAIN ISSUES MAY NOT BE APPROPRIATE FOR MEDIATION, E.G., CRIMINAL ACTS, PATIENT ABUSE, WORKER’S COMPENSATION, AND OTHER CASES AS DEEMED BY THE ADR/EOO MEDIATION MANAGER. IF A CASE IS NOT APPROPRIATE FOR MEDIATION, THE ADR/EOO MEDIATION MANAGER WILL INFORM THE PARTIES.

RESPONSIBILITIES OF THE EEO/DIVERSITY MANAGEMENT COMMITTEE

1. GENERAL: The EEO/Diversity Management Committee serves in a staff advisory capacity to the Medical Center Director on matters pertaining to equal employment opportunity and diversity management. The Committee’s functions are supportive of the functions of the EEO MANAGER. The Committee is representative of major departments and grades and representative of the available workforce including but not limited to culture, race, age and lifestyles.

2. RESPONSIBILITIES:

   A. Functions as a “task oriented” monitoring and recommending body to the Medical Center Director with the participation of the EEO Manager on matters relating to EEO and Diversity Management.

   B. Conducts periodic as needed equal employment opportunity reviews of each organizational segment within the medical center to determine how well the various aspects of equal employment opportunity policy and diversity managed. Reviews may include statistical analyses. Particular attention is given to recruitment, employee training, including special assignments, temporary promotions and details, supervisory training, promotions, communications and complaint patterns as well as any issue affecting the salutary tenor of the workplace.

   C. Develops and recommends actions to the Medical Center Director for inclusion in strategic management and succession planning for improving service delivery and the status of minorities, women, persons with disabilities and Vietnam Era Veterans.

   D. Serves as a “sounding board” for determining attitudes by, and toward minorities, women and persons with disabilities and alternate lifestyles throughout the medical center.

   E. Meets on as needed basis to discuss results of reviews, problems identified and solutions recommended and to discuss ways in which the committee may assist in implementing the medical center EEO/Diversity Management Program.

   F. Supports the Medical Center Director in carrying out an effective community relations program; participates in the development of community education and training programs which affect employability at the medical center (working with educational officials, community and minority groups); and represents the medical center at special events.

   G. Schedules and conducts regular meetings. Establishes subcommittees designed to allow for committee member participation in special studies, in addition to the development of specific recommendations related to the improvement of equal employment opportunities for all and more appreciation for a diverse workforce.

   H. Technical guidance, review and direction are provided by the EEO Manager, who: insures appropriate training and leadership are provided; provides interpretation of law, policies and regulations; attends monthly meetings; keeps the committee members informed as to potential areas for concern, changes in policy, etc. Overall review of performance of EEO/diversity
related duties and responsibilities is conducted by the Medical Center Director and EEO Manager.

I. EEO/Diversity Management Committee Chairperson is appointed by the Medical Center Director, and devotes approximately 10-15% of his/her time to the performance of these collateral duties.

3. EEO/Diversity Management Committee Chairperson and members must maintain:

- The quality and quantity of performance required by the regular non-committee job duties as a requisite to continue appointment in these program assignments.
- Knowledge of the employment and organizational policies and practices that result in discrimination, how they are identified, their causes and possible solutions.
- Understanding of and commitment to merit system principles and the principles of equal employment opportunity and diversity management
- Understanding of the federal labor-management relations program and the significance of union representation.
- Knowledge of special problems faced by minorities and persons with alternate lifestyles at this medical center. Must have the ability to deal effectively with persons at all levels of the organization.
RESPONSIBILITIES OF THE FEDERAL WOMEN’S PROGRAM (FWP) MANAGER

1. The Medical Center’s Federal Women’s Program Manager is considered to be the central point of responsible contact for promoting the Federal Women’s Program (FWP) medical center-wide. The Federal Women’s Program promotes equal employment opportunities for women in such areas as recruitment, training, upward mobility and advancement. Serves as a member of the EEO?Diversity Management Committee.

2. Chairs on an as needed basis a committee or task force of members appointed by the Medical Center Director responsible for carrying out assignments related to the FWP, and also:
   - Advises management of issues and problems related to women at this medical center;
   - Identifies existing and potential barriers to equal opportunity for women;
   - Assists in the development, evaluation and monitoring of affirmative employment plan items, with emphasis on positive plans of action designed to promote equal opportunity in employment for women;
   - Recommends special approaches and/or activities designed to insure maximum compliance with the basic principles of the EEO Program and the FWP;
   - Publicizes all aspects of the medical center FWP and EEO Program efforts with particular emphasis on reaching employees at this medical center as well as community groups; solicits cooperation, support and suggestions for improvements;
   - Serves as a medical center representative with public and private organizations and individuals concerned with the improvement of employment practices for women.

3. Schedules and conducts meetings as necessary. Establishes subcommittees as needed to allow for participation in special studies in addition to development of specific recommendations toward the improvement of equal employment opportunities for women.

4. Technical guidance, review and direction are provided by the EEO Manager who insures that appropriate training and leadership are provided; provides interpretation of laws, policies and regulations; attends meetings; keeps committee members informed as to potential areas of concerns, changes in policies, etc. Overall review of performance of EEO related duties and responsibilities are conducted by the Medical Center EEO Manager on a yearly basis or as required by VA, OPM or EEOC guidelines.

5. FWP Manager is appointed for a two-year or as needed term by the Medical Center Director, and devotes approximately 10% of his/her time to the performance of these collateral duties.

6. FWP Manager must maintain:
   - The quality and quantity of performance required by the regular non-EEO job duties as a requisite to continued appointment as an EEO Official.
   - Knowledge of the employment and organization policies and practices that result in discrimination, how they are identified, their causes and possible solutions.
   - Understanding of and commitment to merit system principles and the principles of equal employment opportunity.
   - Knowledge of special problems/barriers faced by women and minorities at this medical center. Must have the ability to deal effectively with persons at all levels of the organization.
RESPONSIBILITIES OF THE HISPANIC EMPLOYMENT PROGRAM MANAGER

1. The Medical Center Hispanic Employment Program Manager is considered to be the central point of responsible contact for promoting the Hispanic Employment Program (HEP) medical center-wide; promotes equal employment opportunities for Hispanics in such areas as recruitment, training, upward mobility and advancement. Serves as a member of the EEO/Diversity Management Committee.

2. Responsible for carrying out assignments related to the HEP, to include:

   - Advises management of issues and problems related to Hispanics at this medical center;
   - Identifies existing and potential barriers to equal opportunity for Hispanics;
   - Assists in the development, evaluation and monitoring of affirmative action plan items, with emphasis on positive plans of action - designed to promote equal opportunity in employment for Hispanics;
   - Recommends special approaches and/or activities designed to insure maximum compliance with the basic principles of the EEO Program and the HEP;
   - Publicizes all aspects of the medical center HEP and EEO Program efforts with particular emphasis on reaching employees at this medical center as well as individuals and community groups; solicits cooperation, support and suggestions for improvement;
   - Serves as a medical center representative with public and private organizations and individuals concerned with the improvement of employment practices for Hispanics.

3. Technical guidance and direction are provided by the EEO Manager who insures that appropriate training and leadership are provided; provides interpretation of laws, policies and regulations; keeps HEP Manager informed as to potential areas of concern, changes in policy, etc. Overall review of performance of EEO related duties and responsibilities are conducted by the EEO Manager on a yearly basis or as required by VA, OPM or EEOC guidelines.

4. HEP Manager is appointed for a two-year term or as needed by the Medical Center Director and devotes approximately 10% of his/her time to these collateral duties.

5. HEP Manager must maintain:

   - The quality and quantity of performance required by the regular non-EEO job duties as a requisite to continue appointment as an EEO Program Official.
   - Knowledge of the employment and organizational policies and practices that result in discrimination, how they are identified, their causes and possible solutions.
   - Understanding of the commitment to merit system principles and the principles of equal employment opportunity.
   - Knowledge of special problems/barriers faced by minorities at this Medical Center. Must have the ability to deal effectively with persons at all levels of the organization.
RESPONSIBILITIES OF THE PERSONS WITH DISABILITIES/
VIETNAM ERA VETERANS PROGRAM MANAGER (PDP/DVPM)

1. The PDP/DVP Manager is responsible for managing the PDP/DV Program.

2. Develops and plans strategies and takes actions that will enhance the employment, training and upward mobility of persons with disabilities and Vietnam Era Veterans.

3. Assures that affirmative action for the persons with disabilities, disabled and Vietnam Era Veterans is an integral part of the overall medical center EEO Program.

4. Participates in the development and implementation of the medical center’s Affirmative Action Plan in this regard.

5. Serves on the EEO/Diversity Management Committee and other committees having effect on the employment or advancement of persons with disabilities, disabled and Vietnam Era Veterans.

6. Develops and publicizes information at the medical center for the development of awareness, reasonable accommodation and affirmative obligations under law for persons with disabilities, disabled and Vietnam Era Veterans; works to dispel myths and misconceptions about the abilities and needs of the handicapped, disabled and Vietnam Era Veterans.

7. With consultation and approval of the Medical Center Director or EEO Manager, chairs committees in this regard.
POLICY AND PLAN FOR THE PREVENTION OF SEXUAL HARASSMENT

1. **PURPOSE:**

   A. To publish the Bronx VA Medical Center’s plan for the prevention of sexual harassment in the workplace including steps to eliminate this type of unlawful conduct.

   B. Educate and advise employees, managers, and supervisors about their responsibilities, rights, and remedies under the VA’s and Federal Government’s Sexual Harassment Prevention Guidelines.

2. **POLICY:** It is the policy of the Bronx VA Medical Center to provide an environment free of sexual harassment. Since sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship, it will not be permitted. All employees at this Medical Center are expected to conduct themselves in accordance with the VA standards of ethical conduct in order to assure proper performance of assigned duties and responsibilities.

3. **DEFINITION:**

   A. Sexual harassment is deliberate, unsolicited, verbal comments, gestures or physical contact of a sexual nature which are unwelcome. The key word in this definition is “**Unwelcome**” - that is, the conduct must not be wanted or solicited. These guidelines are not intended to regulate social interactions in the workplace. They do, however, make it clear that once a person makes it known that sexual overtures or conduct is “unwelcome”, then **it must stop immediately, making continuation of such conduct unlawful**. Federal guidelines define it as follows:

   "Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when: a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; and/or c) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating hostile or offensive working environment."

   B. Sexual harassment is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to performance, such as the taking or refusal to take a personnel action, including promotion of employees who submit to sexual overtures. Sexual harassment is grounds for disciplinary action **and/or termination** OF THE HARASSER’S EMPLOYMENT.

   C. A supervisor who uses implicit or explicit coercive sexual behavior to control, influence or affect the career, salary, or job of an employee who behaves in this manner in the process of conducting agency business is engaging in sexual harassment. Any employee who participates in deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature, which are unwelcome and interfere in work productivity, is also engaging in sexual harassment.
4. RESPONSIBILITIES:

A. The Medical Center Director and EEO Officer have ultimate responsibility for the prevention of sexual harassment at this medical center.

B. Patient Care Center Directors (PCCDs), Program Chiefs, other managers and supervisors are responsible for implementation of this plan. They are expected to take immediate action with any instance of sexual harassment reported to them by employees. Furthermore, they must fully cooperate with the appropriate staff who informally seek to resolve complaints of sexual harassment.

C. Employees are responsible for discouraging unwelcome sexual overtures. If the employee cannot discourage the unwelcome sexual overtures, the employee should report the specific instances to their supervisor or any management official, PCCD, Program Chief, EEO MANAGER, UNION OFFICIAL OR AN EEO COUNSELOR AT THE OFFICE OF RESOLUTION MANAGEMENT, LYONS, NJ, at 1-888-737-3361.

5. PROCEDURE:

Action Items:

A. PCCD’s, Program Chiefs, other managers and supervisors will make sure that their employees are informed about this plan and attend ongoing training sessions on this subject.

B. The EEO Manager will inform all employees, managers and supervisors about pertinent regulations and procedures relating to sexual harassment and its prevention; distribute written and verbal information at in-service training sessions; and orient new employees on the medical center program.

C. ADR/EEO FACILITATORS will seek to informally resolve matters related to allegations of sexual harassment discrimination.

D. The Federal Women’s Program Manager and/or EEO Manager will conduct ongoing training programs on sexual harassment and its prevention. This training is mandatory for all medical center personnel.
OFFICIAL TIME WITH RESPECT TO EEO COMPLAINTS

1. POLICY: It is the policy of the Bronx VA Medical Center to grant a reasonable amount of “official time” to complainants and their representatives to process and/or resolve EEO complaints. A reasonable amount of official time is defined as whatever is appropriate under the particular circumstances of a complaint, in order to allow a complete presentation of the relevant and material information associated with the complaint with the required specificity and detail to the appropriate VA and EEOC officials. The number of hours to which the complainant and his/her representative are entitled will vary depending on the nature and complexity of the complaint, and considering the agency’s need to have its employees available to perform their normal duties on a regular basis. Complainants and their representatives will be granted official time whenever their presence is required by VA or EEOC officials.

2. RESPONSIBILITIES AND PROCEDURES:

   A. The Medical Center Director is responsible for making the final determination on official time with respect to the EEO process.

   B. The EEO Manager provides technical advice to the Medical Center Director on the matter of official time generally and on a case by case basis. She/He also provides advice and direction to service chiefs, managers and supervisors on the propriety of official time for EEO purposes within the meaning of Federal Regulations and medical center policy.

   C. Patient Care Center Directors, Program Chiefs and supervisors are required to support employees under their supervision who are appointed to collateral duty program assignments, adjust work schedules and workloads as necessary, and otherwise make every reasonable accommodation to insure that EEO personnel are available to carry out their responsibilities.

   D. Employees will assure that their immediate supervisors are informed and concur with the time frames involving official time spent on EEO matters.

EMPLOYEE UNIFORM ISSUE AND UNIFORM ALLOWANCE

1. **POLICY:** This Medical Center furnishes and services employees’ uniforms. Uniforms are furnished to employees only when it is in the best interest of the Department of Veterans Affairs, as defined by current VA regulations governing uniform entitlement, and will be authorized in accordance with the provisions of 5 U.S.C. 5901-5903, and as interpreted by the Office of Management and Budget. Uniforms will be provided either by issue or by an allowance paid to the employee, but not both.

2. **DEFINITION:** "Employee” includes both full and part-time employees of the James J. Peters VA Medical Center, but excludes volunteers, trainees, and workers who receive a stipend or salary from other than VA appropriated funds, and other workers in similar categories.

3. **RESPONSIBILITIES AND PROCEDURES:**

   A. The Chief of the Nutrition and Hospitality Service Center is responsible for the overall program administration, which includes employees receiving uniforms, uniform repair and replacement, and uniform application processing and accountability.

   B. **Uniform Issue:** Patient Care Center Directors, Clinical Practice Chiefs, Service Center Directors, and Program Chiefs are responsible for ensuring that employees under their supervision who receive uniform issue or uniform allowance actually wear the prescribed uniforms. Employees will be directed to the office of the Director of the Nutrition and Hospitality Service Center, which will issue VA Form 10-1148, Employee Uniform and Property Issue Card, for all new employees who are authorized uniform issue.

   C. **Uniform Allowance:** The Chief, Human Resources Management Program, will authorize the payment of uniform allowance on VA Form 10-5397, Employee Uniform Allowance Authorization, and forward it to the Chief, Fiscal Program. Patient Care Center Directors, Clinical Practice Chiefs, Service Center Directors, and Program Chiefs may consult with the Chief of HRMP for information on the uniform entitlement of any specific groups of employees.

   D. Employees who are issued uniforms will be required to wear the prescribed uniforms and employees who receive a uniform allowance will, under no circumstance, wear government-owned uniforms. Employees who receive a uniform allowance are permitted to wear government-provided scrub suits unless the scrub suits are worn for their entire workday; employees whose only uniform is a scrub suit shall not receive a uniform allowance.

   E. Employees in psychiatric units, and in other units having patients who would benefit from an informal treatment atmosphere, are authorized to wear personally-owned clothing in lieu of uniforms for part or all of the time while they are engaged in the provision of patient care. The use, requirement, and appropriateness of personally-owned clothing will be determined by appropriate management officials.
F. The Department Of Veterans Affairs will not be financially responsible for the loss of or damage to any articles belonging to VA employees or the Canteen Program laundered in a VA plant. Employees who lose or otherwise fail to account for the issued number of uniforms will be held financially responsible.

G. New employees will present VA Form 10-1148 at the uniform exchange point located in Room GC-02, Ground Floor, and receive three uniforms. Employees receiving Government-issue uniforms will be required to sign a receipt for the same on VA Form 10-1148.

H. Employees should bring soiled uniforms to the uniform exchange window, Room GC-02, Monday through Friday, during the posted hours of operation, and receive clean uniforms in exchange. Government-issued uniforms will be repaired at VA expense or will be replaced on an item-by-item basis when they are rendered unserviceable through normal wear and tear. Damage to uniforms beyond that normally attributable to use by the employee in the work situation will be charged to the employee. Employees may elect to launder Government-owned uniforms personally; employees who do so, however, are not entitled to any reimbursement for the costs involved.

I. The categories of Medical Center employees entitled to uniform allowance and uniform issue can be found in VHA Handbook 1850.4, “Employee Uniforms”.

J. The Medical Center may authorize deviations from prescribed uniform and may authorize changes to and from issue and allowance.

4. **REFERENCE:** VHA Handbook 1850.4, Employee Uniforms, dated November 1, 2002

5. **RESCISSON:** Policy Memorandum 00-155, dated October 13, 2000

6. **POLICY FORMULATION:** Human Resources Management Program (05)
1. **PURPOSE:** To establish guidelines and procedures for administering all Federal Leave Programs and comply with all negotiated contractual agreements.

2. **POLICY:** To provide leave for employees meeting their needs and those of this Medical Center and ensure that all legal statutes are fairly and consistently administered.

3. **SCOPE:** This policy applies to all employees of the Medical Center, including Title 5, Title 38, and Hybrid Title 38

4. **DEFINITIONS:** The following leave programs apply to Medical Center employees. References to leave in this policy are generally in terms of a regular, full-time administrative work schedule of 40 hours of work per week performed over 5 work days; part-time employees and employees with uncommon tours of duty should make any necessary pro-rated adjustments.

   A. **Annual Leave:** Time off for an annual vacation, a period of rest and relaxation, personal business, or emergencies.

      I. **Advance Annual Leave:** May be granted to an employee in case of emergency but is limited to the amount of annual leave that would be earned by the end of the leave year in which it is granted. Advance annual leave is subject to the approval of the Medical Center Director.

      II. **Carryover of Annual Leave:** At the end of each leave year, employees may carry over accumulated annual leave as follow: a.) 240 hours by General Schedule, Federal Wage System, and part-time Registered Nurses, Physician’s Assistants, Physicians, Dentists, Optometrists and Podiatrists; b.) 685 hours by full-time Registered Nurses and Physician’s Assistants; c.) 86 days by full-time Physicians, Dentists, Optometrists, and Podiatrists. Any leave in excess of the maximum allowed by law will be forfeited.

      III. **Administrative Authority to Cancel Previously Approved Annual Leave:** In an unusual or emergency situation, previously approved annual leave may be canceled and the employee directed to return to duty. Generally, the authority to cancel leave will not be exercised unless there is an urgent unforeseen circumstance and it is feasible for the employee to return to duty. If an employee refuses to return to work when leave is canceled, the absence may be charged to absence without leave (AWOL).

   B. **Sick Leave:** Time off for personal medical needs when an employee: 1.) is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth; 2.) receives medical, dental, or optical examination or treatment; or 3.) would, as determined by local health officials, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease. **NOTE:** Sick leave granted because of a contagious disease shall be limited to the period prescribed by the regulations of local health authorities or certified by a physician where local health regulations do not specify the period of isolation, quarantine, or restricted movement.

      I. **Advance Sick Leave:** May be granted to an employee who suffers a medical emergency; it is limited to a maximum of 240 hours (45 days for full-time physicians
II. Sick Leave — Family Friendly Leave Act: Covered Federal employees may use their accumulated sick leave for Family Care, Bereavement, and Adoption. A maximum of 13 days (104 hours for full-time employees) per leave year may be used for routine Family Care. Bereavement use is limited to 13 days (104 hours) per leave year. In addition, employees may use up to a maximum of 12 administrative workweeks (480 hours) of sick leave to care for a family member with a serious health condition. There is a separate entitlement of a maximum of 13 days of FFL for adoption; this covers activities necessary for adoption, such as appointments with adoption agencies, court proceedings, and required travel, but it does not cover voluntary time off to bond with the child. Sick leave for part-time employees is prorated in proportion to the average number of hours of work in the employee’s scheduled tour of duty in relation to a full-time tour.

C. Bone-Marrow or Organ Donor Leave: Employees are entitled to use up to 7 days of paid leave each calendar year (in addition to annual or sick leave) to serve as a bone-marrow donor. They are also entitled to up to 30 days of paid leave to serve as an organ donor.

D. Court Leave: Paid time off without charge to other leave categories for service as a juror or as a witness in a judicial proceeding in which the Government is a party.

E. Leave Without Pay - Discretionary: Temporary nonpay status and absence from duty; LWOP is usually based on an employee’s request. In most instances, granting LWOP is a matter of supervisory discretion and may be limited by the needs of the Medical Center.

I. Leave Without Pay — Family and Medical Leave Act: Covered Federal employees are entitled to a maximum of 12 administrative workweeks of unpaid leave during any 12-month period for: a) the birth of a son or daughter and care for the newborn; b) the placement of a son or daughter with the employee for adoption or foster care; c) the care of a spouse, son, daughter, or parent with a serious health condition; d) a serious health condition of the employee that makes the employee unable to perform the duties of his or her position.

II. Leave Without Pay — Work-Related Injury (OWCP): Leave will be granted to an employee who suffers a work-related injury or illness. The leave will be granted if an employee is eligible for lost-wage benefits from the department of Labor’s Office of Workers Compensation Programs (OWCP) and is unable to return to full or light duty. Lost-wage benefits are provided following the exhaustion of Continuation of Pay (COP) or the employee elects to buy-back Sick or Annual Leave paid during the period of eligibility.

F. Military Leave: Time off at full pay without charge to other leave will be granted for regular full-time employees who are members of the Reserve Armed Forces or National Guard as follows: i.) Not to exceed fifteen (15) workdays in a Fiscal Year for active military duty, active duty training, or inactive duty training. ii.) Not to exceed twenty-two (22) workdays in a calendar year for the purpose of providing military aid to enforce the law. (Permanent part-time employees will be granted a pro-rated amount of military leave based on their scheduled tour of duty in relation to a full-time schedule of 80 hours per pay period.)
G. **Administrative Leave:** Time off with no charge to leave that is granted at the discretion of a supervisor.

H. **Voluntary Leave Transfer:** Medical Center employees who suffer a medical emergency and have exhausted all of their sick and annual leave may receive voluntary contributions of annual leave from other employees.

5. **GENERAL PROVISIONS:**

A. **Minimum Charge:** The minimum charge for annual and sick leave is one-quarter hour (15 minutes) and multiples thereof, except for full-time physicians, dentists, podiatrists, and optometrists, for whom the minimum charge is one day and multiples thereof.

B. **Requesting Leave:** All ordinary leave is to be requested and approved by means of the automated system in the Veterans Health Information Systems and Technology Architecture (VISTA). Leave requiring special documentation (such as advance Sick Leave, Court Leave, extended LWOP, Military leave, leave under the FMLA, etc.) should be requested in writing on OPM Form-71, Request for Leave or Approved Absence, which is available as a VA Template in MS Word (See Attachment 1), accompanied by the appropriate documentation, such as a summons to jury duty, military orders, etc.

C. **Emergency Leave:** In cases of emergencies, requests for annual or sick leave should be made to an appropriate official authorized to approve leave before the beginning of the tour of duty as soon as the employee becomes aware of the emergency (at least one hour before, if possible), but, in the event of the employee’s physical incapacitation, not later than two (2) hours thereafter. However, employees who are absent for more than 1 day on unscheduled leave may be requested to estimate the probable date of their return to duty. Also, employees who are shift workers may be required to call their supervisor before returning to duty to facilitate the scheduling of all affected employees.

D. **Calling in sick or requesting emergency annual leave or annual leave in lieu of sick leave when schedule to work on holidays:** No request for leave or charge against the employee’s annual or sick leave can be made for an absence on a legal holiday. However, employees who are notified in advance or are scheduled to appear for duty on legal holidays and fail to report for work will be, in the absence of satisfactory explanation or justification, determined to be AWOL (absence without official leave) and will lose pay for the day.

6. **RESPONSIBILITIES AND PROCEDURES:**

A. **ANNUAL LEAVE:**

   I. **Responsibilities and Procedures:** Employees should request leave as far in advance as possible to ensure that patient care needs are met, adequate and appropriate staffing is available to fulfill the Medical Center’s mission, legal and contractual obligations and responsibilities are addressed, and employees are equitably and reasonably treated as far as practicable.

   II. **The Patient Care Center Directors (PCCD’s), PRACTICE CHIEFS (PC’s), and Program Chiefs** have the authority to approve or disapprove requests for accrued annual leave. This authority may be delegated to subordinate supervisors. Supervisors should respect the needs of employees to receive a quick response to any annual leave request so that they may schedule any vacation plans or make final arrangements for the period of leave. Supervisors will provide a response to any request for leave as soon as
administratively possible.

III. Avoidance of Leave Forfeiture: Supervisors should work with employees to plan and schedule annual leave for use, and ensure that employees do not forfeit leave in excess of the carryover limit (normally 240 hours). Carryover of annual leave is generally not permitted, except in the limited circumstances described in Part 630 of Title 5 of the Code of Federal Regulations (CFR). All requests for restoration of forfeited annual leave must be approved by the Medical Center Director.

IV. Advance Annual Leave: Advance annual leave must be requested on OPM Form-71, Request for Leave, and must be accompanied by justification for the request. PCCD’s, PC’s, and Program Chiefs will forward requests for advance annual leave, through the Human Resources Management Program (HRMP), to the Associate Director or Chief of Staff, as appropriate, with the current leave balances of the employee, and a recommendation for approval or disapproval. All determinations regarding advance annual leave will be made by the Associate Director or Chief of Staff, as appropriate.

B. SICK LEAVE:

I. Definitions: For the purposes of the Family Friendly Leave Act, family members are defined to include: spouses and their parents; children, including adopted children, and their spouses; parents; brothers and sisters, and their spouses; and any person related by blood or affinity whose close association with the employee is the equivalent of a family relationship. [Note that these definitions differ from those for the Family and Medical Leave Act (FMLA).] Serious health condition has the same meaning as used for the FMLA. Examples of "serious health conditions" include, but are not limited to, heart attacks, heart conditions requiring heart bypass or valve operations, cancers, back conditions requiring extensive therapy or surgical procedures, kidney dialysis, physical therapy, strokes, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, emphysema, severe arthritis, severe nervous disorders, injuries caused by serious accidents on or off the job, clinical depression, recovery from major surgery, final stages of a terminal illness, and Alzheimer's disease. A "serious health condition" also includes ongoing pregnancy, miscarriages, complications or illnesses related to pregnancy (such as severe morning sickness), the need for prenatal care, childbirth, and recovery from childbirth.

II. Responsibilities and Procedures:

(a) Leave Requests:

i. A request for ordinary sick leave must be made as early as possible before the beginning of the tour of duty (usually at least one hour before), but in the event of the employee’s physical incapacitation not later than the second hour of the work shift, unless extraordinary circumstances prevent the employee (or other responsible person) from notifying the supervisor. Sick leave requests of three working days or fewer may be made orally. Sick leave for more than three working days must be requested on OPM Form-71, Request for Leave, within three days after return to duty. Satisfactory evidence of the need for sick leave during the period of absence must accompany the request. When it would be unreasonable to require a medical certificate because of an illness of a nature that did not require a physician’s service, the employee’s signed statement of reasons why other
supporting evidence is not furnished may be accepted in lieu of required medical
certificate.

ii. In order to request extended sick leave under the Family Friendly leave
provisions beyond the 13 days for general family care or bereavement, employees
must submit to their supervisor a Request for Leave (OPM Form-71) and include
with the request acceptable evidence of the family member’s serious health
condition; the form required for FMLA leave, Certification of Health Care
Provider (See Attachment 3), may be used for this purpose. This documentation
must be provided in advance of the use of the leave; when this is not practicable in
emergency situations, the documentation must be provided within 15 calendar days
of the start of the leave.

iii. The PCCD, PC, or Program Chief has the authority to approve use of
accrued sick leave. This authority may be delegated to subordinate supervisors.

iv. Requests for Family Friendly sick leave for more than 13 days (104 hours)
to care for a family member with a serious health condition must be forwarded
through HRMP to the Associate Director or Chief of Staff, as appropriate, for
approval.

v. Employees must submit accurate statements about absences, applications
for, and use of sick leave, and furnish medical certificates when required.

vi. Only the Employee Health Unit may contact an employee’s personal
physician or clinic where the medical certificate originated concerning any question
related to the medical certification. Employees who are placed off duty on the
certification of the Employee Health Unit shall not be required to furnish a medical
certificate for the period indicated by the certification.

vii. Return to duty: Upon return from sick leave because of a contagious
disease or other medical requirement imposed by management, employees must be
medically cleared for return to duty by the Employee Health office.

viii. Advance sick leave must be requested on OPM Form-71, Request for
Leave, and must be accompanied by medical justification for the request. The
PCCD, PC, or Program Chief will submit a memorandum with the employee’s
request recommending approval or disapproval of the request along with
information concerning the employee’s length of service, quality of performance,
and the likelihood of the employee’s return to duty. All requests are to be
forwarded to HRMP for technical review and processing. All determinations on
requests for advance sick leave will be made by the Medical Center Director.

(b) Sick Leave Restriction: Where there is substantial reason to believe that an
employee is abusing the sick leave entitlement, a sick leave restriction may be
imposed.

i. Sick Leave Counseling: When a supervisor believes that an employee may be
abusing sick leave, the supervisor should review the official time cards in the
Payroll Section of the Fiscal Program to obtain a complete listing of all leave used
due to alleged illness. The type of leave may be sick leave, annual leave in lieu of
sick leave, or LWOP in lieu of sick leave. The amount of approved sick leave used
by an employee is not in itself evidence of abuse. However, if a pattern of leave
usage or other evidence of inappropriate use of sick leave exists (for example, use of sick leave on Mondays and Fridays or around holidays, use of leave as fast as it is accrued, etc.), the supervisor should discuss the use of sick leave with the employee. If the pattern continues and it is determined that there is reason to believe that an employee is abusing the sick leave entitlement, the employee shall be formally counseled and advised of the possibility of future medical certification requirements, should the abuse continue. Supervisors should prepare a written summary of any oral counseling and provide the employee with two (2) copies of it.

ii. **Sick Leave Restriction Notification:** A sick leave restriction letter is a formal written notification to the employee that states that the employee’s use of sick leave indicates an abuse of sick leave and that, in the future, the employee will be required to present a statement from a physician or other health care provider certifying that the employee was incapacitated for work during any specific period of time for which sick leave is requested. The written notice will give the specific reason(s) why the employee is suspected of abusing sick leave. Sick leave supported by medical certification may not be used as the basis of a charge of abuse or possible abuse of sick leave. Although the supervisor may normally require such a note whenever the period of leave for illness exceeds three consecutive workdays, a sick leave restriction letter allows the supervisor to demand such a note regardless of the length of leave (e.g., 1 hour or 3 days). If the supervisor believes that it is necessary to clarify any question concerning a medical certification, the supervisor will contact the Employee Health Unit. Only the Employee Health Unit may contact an employee’s personal physician or health care provider, clinic, or hospital where the medical certification originated.

iii. **Restriction Follow-up:** The supervisor will meet with the employee not later than six months after the restriction letter is issued to review the employee’s leave record since the letter was issued. If no further abuse is indicated, the restriction will be removed, the record shall be made clean, and the employee will be notified of this action. The employee will also be notified of the reasons, in writing, if the restriction is to be continued.

C. **COURT LEAVE:**

I. **Delegation:** PCCD’s, PC’s or Program Chiefs may approve requests for court leave or delegate this authority to the employee’s immediate supervisor.

II. **Procedures:** All requests for court leave will be submitted on OPM Form-71 and must be accompanied by a copy of the appropriate official summons, court notice, or subpoena. The supervisor should always check with HRMP prior to approving or denying a request for court leave.

III. **Fees:** Employees granted court leave must reimburse the Department of Veterans Affairs any fees they are paid for their service as a juror or witness. However, any pay in the nature of expenses, such as for transportation, does not have to be reimbursed.

D. **DISCRETIONARY LEAVE WITHOUT PAY (LWOP):**

I. **Purpose of Discretionary LWOP:** Leave Without Pay is not an employee right or entitlement, but is, rather, discretionary on the part of Medical Center management.
LWOP is temporary absence in nonpay status, subject to the need for the employee’s services on the job, and may be appropriate in situations where an employee requires time either in excess of that provided for under the Family and Medical Leave Act (FMLA) or for situations not covered under the FMLA, such as: 1) job-related educational pursuits; 2) temporary service with non-Federal public or private enterprise; 3) recovery from illness or disability not of a permanent nature; 4) protection of an employee’s status pending final action by the Office of Personnel Management on a claim for disability retirement, action by the Office of Workers’ Compensation Programs on a compensation claim, return to duty from working in a program which the Federal Government is participating or is encouraging (e.g., Peace Corps volunteer), or return to duty from serving on a temporary basis as an officer or representative of an employee organization.

II. Requesting LWOP: Discretionary LWOP will be requested in advance, on OPM Form-71, Request for Leave, and will be accompanied by justification for the request. Requests for LWOP due to illness must be accompanied by medical certification. If the leave is requested for reasons normally covered under the FMLA, the employee’s request must indicate whether the leave is being requested as an FMLA entitlement or under discretionary provisions (e.g., where FMLA entitlement has already been exhausted).

III. Acting on Requests for LWOP:

(a) Supervisors will review LWOP requests to assure the requirements of this policy are met, and will advise employees to correct any deficiencies, such as insufficient justification, lack of required documentation, or failure to clarify whether the request is an FMLA or a discretionary request, before taking action to forward the request for approval.

(b) PCCD’s, PC’s, or Program Chiefs may approve requests for LWOP for periods up to thirty (30) calendar days. Requests for LWOP for periods of more than thirty (30) calendar days must be referred to the Associate Director or Chief of Staff, as appropriate, with a recommendation for approval or disapproval and with the current leave balances of the employee. When a PCCD/Program Chief recommends approval of LWOP of more than thirty calendar days, a form SF-52, Request for Personnel Action, will be forwarded, along with the LWOP request, to the approving official. The Associate Director or Chief of Staff will make the decision on the request.

(c) The Medical Center Director will approve or disapprove requests for LWOP for periods of thirty (30) calendar days or less for employees occupying centralized positions. Requests in excess of thirty (30) calendar days for employees occupying centralized positions will be forwarded to VA Central Office.

IV. Return to Duty: When an employee returns to duty from LWOP originally scheduled for more than thirty days, the employee’s supervisor will assure that an SF-52 for the Return to Duty is prepared and promptly received by HRMP, in order to assure the employee will receive a paycheck on the appropriate payday after the return to duty.

E. LEAVE WITHOUT PAY UNDER THE FAMILY AND MEDICAL LEAVE ACT (FMLA)

I. ELIGIBILITY: FMLA applies to all full-time and part-time General Schedule, Federal Wage System, Title 38, and Hybrid Title 38 employees who have completed twelve (12) months of service. Employees serving on temporary appointments limited to
one year or less are not eligible for FMLA leave.

II. POLICY:

(a.) Supervisors and managers will allow employees to balance their work and family life by approving reasonable amounts of leave requested by employees under the FMLA. Under the Law, employees are entitled to a total of twelve (12) administrative workweeks of unpaid leave during any twelve- (12) month period (employees in recognized bargaining units should familiarize themselves with any negotiated variations from the legal entitlements). Leave under the FMLA may be requested for the following reasons: 1) serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position; 2) the birth, adoption, or foster care of a child; or 3) the care of a child, spouse, or parent who has a serious health condition.

(b.) Employees will not suffer the loss of any employment status, tenure, or benefit to which they would otherwise have been entitled as a result of taking leave under the FMLA.

III. DEFINITIONS:

(a.) Family Member: [Note that these definitions differ from those for Family Friendly Leave.] For the purposes of the FMLA — Son or daughter means a biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing in loco parentis who is 1) under 18 years of age, or 2) 18 years of age or older and incapable of self-care because of a mental or physical disability. In loco parentis refers to the situation of an individual who has day-to-day responsibility for the care and financial support of a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child; a biological or legal relationship is not necessary. Parent means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child; this term does not include parents “in law.” Spouse means an individual who is a husband or wife pursuant to a marriage that is a legal union between one man and one woman, including common law marriage between one man and one woman in States where it is recognized.

(b.) Serious health condition means an illness, injury, impairment, or physical or mental condition that involves -- (i) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or (ii) Continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition and evaluations of such conditions if the examinations or evaluations determine that a serious health condition exists. Continuing treatment by a health care provider may include one or more of the following -- (A) A period of incapacity of more than 3 consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves -- (1) Treatment two or more times by a health care provider, by a health care provider under the direct supervision of the affected individual's health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or (2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the
supervision of the health care provider (e.g., a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition). (B) Any period of incapacity due to pregnancy or childbirth, or for prenatal care, even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days. (C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that -- (1) Requires periodic visits for treatment by a health care provider or by a health care provider under the direct supervision of the affected individual's health care provider, (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and (3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). The condition is covered even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days. (D) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The affected individual must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (e.g., Alzheimer's, severe stroke, or terminal stages of a disease). (E) Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity or more than 3 consecutive calendar days in the absence of medical intervention or treatment (e.g., chemotherapy/radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease). Serious health condition does not include routine physical, eye, or dental examinations; a regimen of continuing treatment that includes the taking of over-the-counter medications, bed-rest, exercise, and other similar activities that can be initiated without a visit to the health care provider; a condition for which cosmetic treatments are administered, unless inpatient hospital care is required or unless complications develop; or an absence because of an employee's use of an illegal substance, unless the employee is receiving treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal disease are not serious health conditions. Allergies, restorative dental or plastic surgery after an injury, removal of cancerous growth, or mental illness resulting from stress may be serious health conditions only if such conditions require inpatient care or continuing treatment by a health care provider.)

IV. RESPONSIBILITIES AND PROCEDURES:

(a) Requesting leave: In order to invoke the entitlement to leave under the provisions of the FMLA, employees must: 1) submit to their supervisor a Request for Leave (OPM Form-71) indicating the type of leave that is being requested under the FMLA; and 2) submit the request not less than thirty (30) days in advance of the need for leave, unless the need for leave is not foreseeable. If the need was not foreseeable, the request must be submitted as soon as practicable after the need is known; an employee may not retroactively invoke FMLA for a previous absence from work; and
3) include with the request acceptable evidence of the need for FMLA leave in the form of a Certification of Health Care Provider (See Attachment 3) documenting one of the following: a) the birth of a son or daughter and care of such son or daughter; b) placement of a child with the employee for adoption or foster care; c) care of a spouse, son, daughter, or parent of the employee, if such a spouse, son, daughter, or parent has a serious health condition; d) a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position; and 4) comply with any requirement that a second and/or third opinion of the medical necessity for the leave be obtained; and 5) make a reasonable effort, subject to the approval of the employee’s health care provider, to schedule needed FMLA leave on an intermittent or reduced work schedule basis so as not to disrupt unduly the work of the Medical Center. (The Certification of Health Care Provider form defines the criteria for serious health condition, outlines the criteria and procedures for second and third medical opinions, and describes the evidence that is acceptable for demonstrating the existence of such a condition.)

(b) Acting on Leave Requests:

i. Supervisors will review each leave request to assure that the employee has adhered to the above criteria and will: 1) advise the employee of any deficiency in a request under the FMLA, so the employee has an opportunity to provide the additional documentation or information; 2) approve requests that meet the criteria of this policy memorandum and that are for periods of up to thirty calendar days; and 3) forward to the Associate Director or Chief of Staff, as appropriate, through the Human Resources Management Program (HRMP), requests for leave without pay under the FMLA for periods of more than thirty calendar days.

ii. The Associate Director or Chief of Staff will approve requests for leave without pay for more than thirty calendar days that meet the criteria of the FMLA for employees in noncentralized positions.

iii. The Medical Center Director will: 1) approve requests for leave without pay for up to thirty calendar days that meet the criteria of this policy memorandum for employees in centralized positions; 2) forward to VA Central Office for action requests for leave without pay for more than thirty calendar days for employees in centralized positions.

(c) Program Administration:

i. Supervisors and managers will: 1) assure all employees under their supervision are made aware of their rights under the FMLA; 2) permit employees freely to elect to invoke the FMLA or to substitute paid time off to which they are otherwise entitled, i.e., annual leave or sick leave. The provisions of the FMLA are in addition to, not instead of, the provisions that already exist under these other leave programs. Employee may elect to substitute annual or sick leave; however, sick leave may only be substituted in those situations where it would otherwise be approved, that is, when the employee has a medical appointment, is actually sick or incapacitated, is taking care of a sick family member, or is using the time for bereavement purposes; 3) assure that employees are free from any attempt to directly or indirectly intimidate, threaten, or coerce them for the purpose of interfering with the exercise of any rights that such employees may have under the
FMLA; 4) comply with any other Federal law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability, assuring that the employee is given the rights of the statute which provides the greatest benefit.

ii. Employees may take only the amount of FMLA leave that is necessary to manage the circumstances that prompted the need for such leave. Employees who believe that the Medical Center has not fully complied with the rights and requirements provided under the FMLA may file a grievance under either the Medical Center’s administrative grievance procedure or a negotiated grievance procedure, as appropriate.

(d) Return to Work: The Medical Center may require employees who have taken FMLA leave for a serious personal health condition to provide medical certification that they are able to return to work without posing a danger to themselves, other employees, or Medical Center patients. The information on the medical certification to return to work must relate only to the serious health condition for which FMLA leave was authorized.

F. MILITARY LEAVE:

I. Delegation of Authority: PCCD’s, PC’s, and Program Chiefs may approve requests for military leave or delegate this authority to the employee’s immediate supervisor.

II. Procedure: All periods of military leave will be requested as soon as possible on OPM Form-71, accompanied by a copy of the military orders. Upon return to duty, the employee must provide a statement from military authorities confirming that active duty was actually performed during the period of time for which the military leave was granted.

III. Carryover: Employees may carry over up to fifteen (15) days of military leave for regular military duty or training to the next fiscal year.

G. ADMINISTRATIVE LEAVE:

I. Policy: Administrative leave is not an employee right or entitlement. At the discretion of Medical Center management, however, employees may be authorized to be absent from duty without charge to leave when (1) the activity is of substantial benefit to the VA in accomplishing its general mission or one of its specific functions, or (2) the activity will clearly enhance the employee’s ability to perform the duties of the position he or she currently occupies or may be expected to occupy prospectively, or (3) the basis for excusing the employee is consistent with prevailing practices of other Federal establishments in the area. Such occasions where excused absences without charge to leave may be appropriate include, but are not restricted to, the following: (a) voting and registration; (b) civil defense and disaster activities; (c) participation in military funerals; (d) blood donations; (e) absence for periods of less than one (1) hour; (f) taking examinations as directed by VA; (g) attendance at conferences and training sessions that are work-related; (h) attendance at funerals for members of an employee’s immediate family who die in the line of duty while serving in the armed forces (limited to not more than three (3) days of excused absence); (i) participation in Federal hearings or appeals; (j) representing labor organizations.

II. Delegation of Authority: The employee’s immediate supervisor may authorize excused absence when appropriate, with the following exceptions: (1) The Secretary or Deputy Secretary must approve the attendance of an employee as an official representative
of the VA at National Conventions of veterans’ service organizations; (2) The Medical Center Director may excuse labor organization representatives for training sponsored by the labor organization or the agency where the training will be of benefit to both the agency and the labor organization.

III. Procedure: The employee should submit a memorandum to the approving official explaining fully the reasons for his or her request. Approving officials should consult the Human Resources Management Program for further information when in doubt concerning the appropriateness of approving excused absence for an employee.

H. VOLUNTARY LEAVE TRANSFER PROGRAM

I. Policy: Under the Voluntary Leave Transfer Program an employee may submit a written request to become a leave recipient or a leave donor. Employees may not donate leave to their immediate supervisors. An employee, including supervisors and managers, may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using annual leave.

II. Definitions: For the purposes of the Voluntary Leave Transfer Program, Family member has the same meaning as for Family Friendly Leave. Medical emergency means a medical condition of an employee or a family member of the employee that is likely to require the employee’s absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of unavailability of paid leave.

III. Procedures:

(a) Leave Recipient: An employee who desires to become a leave recipient must submit a written request to the Medical Center Director through the Human Resources Officer. The request must be submitted within thirty (30) days of the termination of the medical emergency justifying the request. Each application shall be accompanied by the following information concerning each potential leave recipient: (1) The name, position title, and grade or pay level of the potential leave recipient; (2) The reasons transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency, and if it is a recurring one, the approximate frequency of the medical emergency affecting the potential leave recipient; (3) Certification from at least one physician, or other appropriate experts, with respect to the medical emergency; and (4) Any additional information that may be required by the Human Resources Officer to support the individual application.

(b) Leave Donor: An employee may submit a voluntary written request to transfer a specified number of hours (or days, in the case of certain Title 38 employees) from his or her annual leave account to the annual leave account of a specified VA leave recipient. This request will be submitted on VA Form 0239, Leave Transfer Authorization (Attachment 2), through the Human Resources Management Office to the Fiscal Officer. The minimum amount of annual leave that may be transferred from a Title 5 or Hybrid Title 38 employee, or a Title 38 employee who is charged in hours, is four (4) hours; for a Title 38 employee charged leave in whole day increments, the minimum amount is one (1) day. The maximum amount that an employee may donate is one-half the amount of annual leave the donor would accrue during the Leave Year the donation is made. A leave donor who is projected to have
annual leave subject to forfeiture at the end of the Leave Year (i.e., use-or-lose annual leave) may donate no more than the lesser of (1) one-half the amount of annual leave the donor would accrue during the Leave Year the donation is made; or (2) the number of hours or calendar days remaining in the Leave Year, as of the date of the transfer, for which the leave donor is scheduled to work and receive pay. However, the Medical Center Director may waive these limitations on maximum individual donations on a case-by-case basis upon written certification by the Human Resources Officer and the Fiscal Officer that the available donations are insufficient to remedy the income loss of the employee experiencing the medical emergency. The Director’s waiver must be in writing.

(c) **Recipient’s Supervisor:** Supervisors are responsible for continuously monitoring the status of the leave recipient’s medical emergency to assure that the employee is still affected by it and for promptly notifying the Human Resources Management Program of any changes in the employee’s status in writing.

7. **REFERENCES:**  
   5 U.S.C. Ch. 63  
   5 CFR Part 630, 810  
   VA HANDBOOK 5011, PART III

8. **RECISSION:** Policy Memorandum 00-304, dated July 31, 2003

9. **POLICY FORMULATION:** Human Resources Management Program (05)

_______________________________ _______________________________
JOSEPHINE SCIACCA ERIK LANGHOFF, MD, PhD
Chief Nurse Executive Chief of Staff

_______________________________ _______________________________
LOUIS J. RUGGIERO MARYANN MUSUMECI
Acting Associate Director Medical Center Director

ATTACHMENTS:  
A - REQUEST FOR LEAVE OR APPROVED ABSENCE  
B - LEAVE TRANSFER AUTHORIZATION  
C - Certification of Health Care Provider  
( Family and Medical Leave Act of 1993)
**REQUEST FOR LEAVE OR APPROVED ABSENCE**

<table>
<thead>
<tr>
<th>1. Name (Last, First, Middle Initial)</th>
<th>2. EMPLOYEE OR SOCIAL SECURITY NUMBER</th>
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<td>3. Organization</td>
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<tr>
<th>4. Type of Leave/Absence</th>
<th>Date</th>
<th>Time</th>
<th>Total Hours</th>
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<td>Check appropriate box(es) below and enter date and time below</td>
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- [ ] Accrued Annual Leave
- [ ] Restored Annual Leave
- [ ] Advance Annual Leave
- [ ] Accrued Sick Leave
- [ ] Advance Sick Leave

**Purpose:**
- [ ] Illness/injury/incapacitation of requesting employee
- [ ] Medical/dental/optical examination of requesting employee
- [ ] Care of family member/bereavement, including medical/dental/optical examination of family member, or bereavement
- [ ] Care of family member with a serious health condition
- [ ] Other

- [ ] Compensatory Time Off

- [ ] Other Paid Absence  
  *Specify in Remarks*

- [ ] Leave Without Pay

5. **FAMILY AND MEDICAL LEAVE**  
If annual leave, sick leave, or leave without pay will be used under the Family and Medical Leave Act (FMLA, please provide the following information:

- [ ] I hereby invoke my entitlement to Family and Medical Leave for:
  - [ ] Birth/Adoption/Foster Care
  - [ ] Serious Health Condition of Spouse, Son, Daughter, or Parent
  - [ ] Serious Health Condition of Self

- [ ] Restored Annual Leave
- [ ] Advance Annual Leave
- [ ] Accrued Sick Leave
- [ ] Advance Sick Leave
- [ ] Illness/injury/incapacitation of requesting employee
- [ ] Medical/dental/optical examination of requesting employee
- [ ] Care of family member/bereavement, including medical/dental/optical examination of family member, or bereavement
- [ ] Care of family member with a serious health condition
- [ ] Other

6. **Remarks**

7. **Certification:** I hereby request leave/approved absence from duty as indicated above and certify that such leave/absence is requested for the purpose(s) indicated. I understand that I must comply with my employing agency's procedures for requesting leave/approved absence (and provide additional documentation, including medical certification, if required) and that falsification of information on this form may be grounds for disciplinary action, including removal.

7a. Employee signature  
7b. Date signed

8a. Official action on request  
- [ ] Approved  
- [ ] Disapproved  
  *(If disapproved, give reason. If annual leave, initiate action to reschedule.)*

8b. Reason for disapproval

8c. Signature  
8d. Date signed

**Privacy Act Statement**

Section 6311 of title 5, United States Code, authorizes collection of this information. The primary use of this information is by management and your payroll office to approve and record your use of leave. Additional disclosures of the information may be: To the Department of Labor when processing a claim for compensation regarding a job connected injury or illness; to a State unemployment compensation office regarding a claim; to Federal Life Insurance or Health Benefits carriers regarding a claim; to a Federal, State, or local law enforcement agency when your agency becomes aware of a violation or possible violation of civil or criminal law; to a Federal agency when conducting an investigation for employment or security reasons; to the Office of Personnel Management or the General Accounting Office when the information is required for evaluation of leave administration; or the General Services Administration in connection with its responsibilities for records management.

Public Law 104-134 (April 26, 1996) requires that any person doing business with the Federal Government furnish a social security number or tax identification number. This is an amendment to title 31, Section 7701. Furnishing the social security number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application. If your agency uses the information furnished on this form for purposes other than those indicated above, it may provide you with an additional statement reflecting those purposes.
**LEAVE TRANSFER AUTHORIZATION**

**PART I - TO BE COMPLETED BY LEAVE DONOR**

<table>
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<th>ORGANIZATION UNIT</th>
<th>GRADE (Include step)</th>
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<tr>
<th>NAME OF RECIPIENT OF DONATED LEAVE</th>
<th>AMOUNT OF DONATED LEAVE</th>
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<tr>
<th>HOURS/DAYS OF REGULAR ANNUAL LEAVE</th>
<th>HOURS/DAYS OF RESTORED ANNUAL LEAVE</th>
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**AUTHORIZATION** - I authorize transfer of leave to the above-named recipient.

**SIGNATURE OF DONOR**

**DATE SIGNED**

**PART II - ACTION BY HUMAN RESOURCES MANAGEMENT OFFICE**

I have reviewed the current position and the grade pay levels of the above-named donor and leave recipient and certify that this request

- [ ] meets
- [ ] does not meet the administrative requirement for leave transfer.

**COMMENTS**

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<th>SIGNATURE</th>
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**PART III - ACTION BY PAYROLL OFFICE**

I have reviewed the leave record of the above-named donor and certify that the annual leave in the amount shown below meets the criteria of the leave transfer program. This leave is transferred on the date indicated below.

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<tr>
<th>AMOUNT OF LEAVE</th>
<th>EFFECTIVE DATE</th>
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**COMMENTS**

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<th>SIGNATURE</th>
<th>TITLE</th>
<th>DATE SIGNED</th>
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**PART IV - ACTION BY PAYROLL OFFICE AT ERMINATION OF THE PERSONAL EMERGENCY**

<table>
<thead>
<tr>
<th>DATE PERSONAL EMERGENCY ENDED</th>
<th>HOURS/DAYS OF ANNUAL LEAVE RESTORED TO DONOR</th>
<th>DATE RESTORED</th>
<th>INITIALS OF PAYROLL CLERK</th>
<th>DATE SIGNED</th>
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In Lieu of VA Form 0239
Certification of Health Care Provider  
(Family and Medical Leave Act of 1993)

1. Employee’s Name: ____________________________  
2. Patient’s Name (if different from employee): ____________________________

3. The attached sheet describes what is meant by a **serious health condition** under the Family and Medical Leave Act (FMLA). Does the patient’s condition qualify under any of the categories described? If so, please check the applicable category:

1) ________ Inpatient Hospital Care  
2) ________ Absence Plus Treatment  
3) ________ Pregnancy  
4) ________ Chronic Condition Requiring Treatments  
5) ________ Permanent/Long-Term Condition  
6) ________ Multiple Treatments (Non-Chronic Condition)  
_______ None of the Above

4. Describe the **medical facts** that support your certification, including a brief statement as to how the medical facts meet the criteria of at least one of these categories of **serious health condition**:

____________________________________________________________________________________________________

5. A. State approximate **date** the condition commenced, and the probable **duration** of the condition (and the probable duration of the patient’s **incapacity**, if different):

B. Will it be necessary for the employee to take work only **intermittently** or to work on a **less than full schedule** as a result of the condition (including for the treatment described in Item 6, below)? ☐ Yes ☐ No. If yes, give the probable duration:

C. If the condition is a **chronic condition** (condition #4) or **pregnancy**, state whether the patient is currently incapacitated and the likely duration and frequency of **episodes of incapacity**:

____________________________________________________________________________________________________

6. A. If additional **treatments** will be required for the condition, provide an estimate of the probable **number** of such treatments:

B. If the patient will be absent from work or other daily activities because of **treatment** on an **intermittent** or **part-time basis**, please also provide an estimate of the probable **number** of and interval between such **treatments**, actual or estimated **dates** of treatment (if known), and period of recovery, if any:

C. If any of these treatments will be provided by **another provider of health services** (e.g., physical therapist), please state the nature of the treatments:

D. If a **regimen of continuing treatment** by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment, etc.):

---

1 Here and elsewhere on this form, the information sought relates **only** to the condition for which the employee is requesting FMLA leave.

2 “**Incapacity,**” for purposes of FMLA, is defined to mean inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefrom, or recovery therefrom.
7. A. If medical leave is required for the employee’s absence from work because of the employee’s own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind?  
☐ Yes ☐ No

B. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee’s job (the employee or the employer should provide you with information about the essential job functions)?  
☐ Yes ☐ No  If yes, please specifically list the essential functions the employee is unable to perform:

C. If neither 7.A nor B applies, is it necessary for the employee to be absent from work for treatment?  ☐ Yes ☐ No. Explain:

8. A. If FMLA leave is required for the employee to care for a family member with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation?  ☐ Yes ☐ No

B. If no, would the employee’s presence to provide psychological comfort be beneficial to the patient or assist in the patient’s recovery?  ☐ Yes ☐ No. Explain:

C. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

<table>
<thead>
<tr>
<th>To be completed by Health Care Provider</th>
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<tbody>
<tr>
<td>(Signature of Health Care Provider)</td>
</tr>
<tr>
<td>(Type of Practice)</td>
</tr>
<tr>
<td>(Address)</td>
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<tr>
<td>(Telephone Number)</td>
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<tr>
<td>(Date)</td>
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<table>
<thead>
<tr>
<th>To be completed by the employee needing FMLA leave to care for a family member</th>
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</thead>
<tbody>
<tr>
<td>State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full-time schedule:</td>
</tr>
<tr>
<td>(Employee Signature)</td>
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</tbody>
</table>
Family and Medical Leave Act — Explanation of Terms

Serious Health Condition means an illness, impairment, or physical or mental condition that involves one of the following:

1. HOSPITAL CARE
   Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

2. ABSENCE PLUS TREATMENT
   A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:
   A. **Treatment** two or more times by a health care provider, by a nurse or a physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or referral by, a health care provider; or
   B. **Treatment** by a health care provider on at least one occasion, which results in a **regimen of continuing treatment** under the supervision of a health care provider.

3. PREGNANCY
   Any period of incapacity due to pregnancy, or for prenatal care.

4. CHRONIC CONDITIONS REQUIRING TREATMENTS
   A chronic condition that:
   A. Requires **periodic visits** for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider; and
   B. Continues over an **extended period of time** (including recurring episodes of a single underlying condition); and
   C. May cause **episodic** rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

5. PERMANENT/ LONG-TERM CONDITIONS REQUIRING SUPERVISION
   A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer’s disease, a severe stroke, or the terminal stages of a disease.

6. MULTIPLE TREATMENTS (NON-CHRONIC CONDITIONS)
   Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

---

1. Here and elsewhere on this form, the information sought relates only to the condition for which the employee is requesting FMLA leave.
2. **Incapacity**, for the purposes of FMLA, is defined to mean the inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.
3. **Treatment** includes examinations to determine if a serious condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.
4. A **regimen of continuing treatment** includes, for example, a course of prescription medication (e.g., antibiotics) or therapy requiring special equipment to resolve or alleviate the serious health condition. A regimen does not include the taking of over-the-counter medications, such as aspirin, antihistamines, or salves; or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.
ADMINISTRATIVE GRIEVANCE PROCEDURE

1. **PURPOSE:** To issue policy on administrative grievance procedure for Title 5 and Title 38 Hybrid employees.

2. **POLICY:** It is the policy of the James J Peters Bronx VA Medical Center to identify, prevent, and make reasonable efforts to correct the causes of employment-related dissatisfactions that are subject to the control of agency management, and to assure employees freedom from reprisal in exercising grievance rights. Supervisors and management officials will explore alternative solutions to resolve employee grievances at the earliest stage possible.

3. **SCOPE:** This administrative grievance procedure is available to all employees of the Medical Center except:

   a. a noncitizen appointed under Civil Service Rule VIII, section 8.3 of title 5, Code of Federal Regulations;

   b. an alien appointed under section 1471(5) of title 22, United States Code;

   c. a VA physician, dentist, nurse, or other employee appointed under chapter 73 or 74 of title 38, United States Code, which is covered by VHA Handbook 5021, part IV, Chapter 3.. This exclusion does not apply to full-time permanent [employees] appointed under 38 U.S.C. 7401(3), permanent part-time employees appointed under 38 U.S.C. 7405(a)(1)(B), or temporary part-time or full-time employees appointed under 7405(a)(1)(B) serving on appointments not limited to one year or less; and

   d. an individual paid from funds as defined in section 2105(c) of title 5 (not applicable to the VA) or section 4202(5) of title 38, United States Code i.e., Excepted Service Veterans Canteen employees.

4. **DEFINITIONS:**

   A. Grievance: A request by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction relating to employment which is subject to the control of agency management. Matters not covered by these grievance procedures are listed in Appendix A.

   B. Employee: An employee currently on the rolls or a former employee of the VA for whom a specific remedy can still be appropriately provided. Former employees must have filed a timely grievance in accordance with the provisions of this chapter in order to receive consideration.

   C. Personal Relief: A specific remedy directly benefiting the grievant(s). A remedy may not include a request for disciplinary or other action affecting another employee.
D. Grievance File: A separate file subject to the Privacy Act which contains all documents related to the grievance, including, but not limited to, statements of witnesses, records or copies thereof, the report of the hearing when one is held, statements made by the parties to the grievance, and the decision.

E. Days: Days means calendar days.

5. RESPONSIBILITIES AND PROCEDURES:

A. Management officials, including PRACTICE CHIEFS, Patient Care Center Directors, Program Chiefs, and all supervisors are responsible for administering the VA grievance procedure in accordance with VA regulations, assuring that grievances are processed promptly, and assuring that delays in any stage of the grievance procedure beyond the prescribed time limits will be explained to the employee and documented for the record.

B. Human Resources Officers. Human Resources Officers and their staffs will provide guidance and technical advice to management and employees regarding the administration of the grievance procedure.

C. Grievance Examiner. Grievance examiners are responsible for making an impartial and objective inquiry regarding the merits of a grievance and for providing a report of findings and recommendations to the decision official as well as to all parties involved.

D. Time Frames: A decision on a grievance will be issued within the shortest time frame possible. To ensure timely and orderly processing, the following time limits are established for each stage of the grievance procedure:

1. 15 days from the date of the incident or action on which the grievance is based for employee to initiate grievance.
2. 10 days for completion of action under the informal procedure.
3. 10 days for employee to file a written grievance under the formal procedure after completion of action under the informal procedure.
4. 10 days for deciding official to adjust or refer grievance for inquiry by examiner or for technical review after employee files formal grievance.
5. 30 days for completion of the inquiry when the examiner is appointed locally.
6. 45 days for completion of the inquiry when the examiner is appointed by Central Office.
7. 30 days for Central Office to issue technical reviews when requested to do so by the deciding official.
8. 15 days for issuance of the decision after the deciding official receives the examiner's report of findings and recommendations or the Central Office
technical review, unless the deciding official takes exception to the findings and recommendations of an examiner.

E. Delays in Processing Grievances: Management officials should ensure that grievances are processed promptly. Management delays in any stage of the grievance procedure beyond the prescribed time limits will be explained to the employee and the employee's representative, and will be documented for the record. Such delays should be rare and held to a minimum. If the employee delays in any stage of the grievance procedure, management will determine whether there was good cause and whether the grievance should continue to be processed. Such delays and explanations will be documented for the record. This includes any delay created by the denial of an employee's representative or by challenge to the denial.

F. Representation:

1. Employees have the right, if they so choose, to be accompanied, represented, and advised by a representative of their choice at any stage of the grievance procedure. If the grievance is presented under the formal grievance procedure, the designation of a representative will be in writing and will be submitted to the deciding official. Any change of representative must be in writing. A representative may be disallowed because of the priority needs of the service, unreasonable cost to the Government, conflict of position, or conflict of interest. The disallowance of a representative will be in writing and will be issued within 5 days of the receipt of the employee’s designation of representative.

2. The notice of disallowance will inform the employee of the basis on which the determination to disallow is made, and the right of the employee to challenge the disallowance. If an employee chooses to challenge a disallowance, he/she must do so in writing to the deciding official within 5 days of receipt of the disallowance decision. The challenge must state the reason for disagreeing with the disallowance and whether the employee wishes challenge. A final decision on a challenge of disallowance of a representative will be made no later than 10 days after receipt of the challenge by the Director. In the event that an employee changes representatives during the proceeding, any disallowance of representative or challenge regarding a disallowance will be resolved in the above manner.

H. Informal Grievance:

1. Presenting Grievance Under Informal Procedures: An employee desiring consideration of a grievance must first seek informal adjustment of the matter through supervisory channels. The employee’s request for informal adjustment of a grievance should be made as soon as possible, but not later than 15 days after the date of the incident or action upon which the grievance is based or the date upon which the employee became aware of, or should have become aware of, the incident or action upon which the grievance is based. The initial presentation, which may be oral or written, is normally made to the immediate supervisor. Subsequent presentations must be in writing. If the grievance is presented orally, the employee must make it clear
that he/she is presenting a grievance, in order to distinguish grievances from mere inquiries. Supervisors who receive oral grievances will prepare a written summary of the oral presentation and will notify the grievant of the decision in writing.

2. Resolving Grievances Under Informal Procedure: The supervisor to whom a grievance has been presented for informal adjustment will attempt to resolve it as expeditiously as possible, seeking the advice and assistance of others where necessary, and will give the employee a written decision on the matter within 10 days from the date of the request for informal consideration. If the relief sought is not granted, the employee should be advised of the right to present the grievance under the formal procedure. The employee must complete processing under the informal procedure before a grievance concerning the same matter will be accepted for processing under the formal procedure.

3. An employee may present a grievance concerning a continuing practice or condition at any time. Situations caused by action which were taken or were identified as of a given date (e.g., admonishments, reprimands, reassignments, shift or duty assignments,) are not considered continuing conditions for these purposes despite any continuing effects they may have.

4. Mandatory Use of the Informal Procedure. The employee must complete processing under the informal procedure before a grievance concerning the same matter will be accepted for processing under the formal procedure.

I. Formal Grievance:

1. If the employee is not satisfied with the informal answer, he or she may present the grievance in writing under the formal procedure. The formal grievance must be filed through supervisory channels within 10 days after receipt of the answer under the informal procedure. The time limit may be extended by management when good cause is shown by the employee. The formal grievance must be in writing and contain sufficient detail to identify and clarify the basis for the grievance. It must contain the following information:

   a. The specific action or incident on which the grievance is based; the date the action or incident occurred, and the date the employee first learned of the action.

   b. The reason(s) the employee believes that the action was unjustified or that he or she was treated unfairly.

   c. A copy of any specific policy (agency, station, etc.), written agreement, or provision believed to have been violated, and an explanation of how the violation affected the employee.

   d. The corrective action desired by the employee. If the formal grievance does not contain a statement of grievance, giving essentially the information specified above, the deciding official will return the grievance to the employee so that the necessary information may be furnished.
2. Routing Formal Grievance: The immediate supervisor or other official receiving
the employee’s formal grievance will refer it promptly to the Medical Center
Director. The Human Resources Management Officer will be notified promptly by
the Director and will establish a grievance file, which will contain the employee’s
grievance, designation of representative, written replies, etc. The grievance file will
be made available to the employee or the employee’s representative for review.

3. Resolving Formal Grievance: Unless it is rejected or returned for additional
information, the Director will review the employee’s grievance and the grievance file
and explore the possibility of adjusting the grievance to the employee’s satisfaction.
If the Director is unable to resolve the grievance in a manner acceptable to the
employee, the grievance will be referred for inquiry by an examiner. In cases where
the facts are not in dispute and the primary issue involves the interpretation of
regulation or policy, the deciding official may, instead of appointing an examiner,
forward the grievance to VA Central Office for technical review within 10 days of
receipt of the formal grievance.

4. Appointment of a Grievance Examiner:
   a. In cases where it is determined that an examiner is required; the Director will
      appoint an employee to act as the grievance examiner. The examiner assigned
      will promptly review the case and determine the nature and scope of the
      inquiry appropriate to the issues involved in the grievance. The examiner will
      prepare a report of findings and recommendations, and submit that report,
      with the grievance file, to the Director. The examiner will also furnish the
      employee and the employee’s representative with a copy of the report.
   b. When it is not practicable to appoint a local grievance examiner due to the
      nature of the grievance and/or the availability of an appropriate individual to
      act as a grievance examiner, the grievance should be forwarded to the next
      higher organizational level for assignment of a grievance examiner.

5. Decision on Grievance: Upon receipt of the grievance examiner’s report of
   findings and recommendations, the Director will either:
   a. Accept the examiner’s recommendation(s) and issue a written decision to the
      employee within 15 days after the recommendation is received. The
      employee’s representative will also receive a copy of the decision; or
   b. Grant the relief sought by the employee, issuing the decision without regard to
      the examiner’s recommendation(s), or, if the Director determines the
      examiner’s recommendations are unacceptable, forward the examiner’s
      recommendations and a specific statement of the basis for objection, with the
      grievance file, to the Director of Veterans Integrated service Network (VISN)
No. 3. The Network Director will render a final decision on the employee’s grievance.

6. REFERENCES: 5 CFR Part 771
VA HANDBOOK 5021, Part IV, CHAPTER 2


8. POLICY FORMULATION: Human Resources Management Program (05)

THEODOCIA FARRALES
Acting Chief Nurse Executive

ERIK LANGHOFF, MD, PHD
Chief of Staff

VINCENT F. IMMITI
Associate Director

MARYANN MUSUMECI
Medical Center Director
APPENDIX A

MATTERS EXCLUDED FROM COVERAGE

The following actions and complaints are excluded from coverage under the administrative grievance procedure:

1. The content of published agency regulations and policy. An employee's allegation that locally established policy is in conflict with existing agency policy or regulations may be handled as indicated in paragraph 4(E)(3) of this Policy Memorandum.

2. A decision that is appealable to the MSPB (Merit Systems Protection Board) or subject to final administrative review by the OPM (Office of Personnel Management), the FLRA (Federal Labor Relations Authority), or the OWCP (Office of Workers' Compensation Programs) under law or regulations of the OPM, FLRA, or the OWCP; or any other matter for which final administrative authority lies outside the VA.

3. Allegations of discrimination on the basis of race, color, religion, sex, national origin, age over 40 and/or disabling condition, in connection with any decision or action. Such allegations may only be pursued as complaints of discrimination, pursuant to regulations of the Equal Employment Opportunity Commission.

4. Nonselection for promotion from a group of properly ranked and certified candidates or failure to receive a non-competitive promotion.

5. A preliminary warning notice of an action which, if effected, would be covered under a grievance or appeal system or excluded from coverage by paragraph 2 of this Appendix.

6. A return of a SES (Senior Executive Service) career appointee to the General Schedule or another pay system during the 1-year period of probation for less than full successful executive performance.

7. Reassignment of an SES appointee

8. An action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade and pay than the position from which the employee was temporarily promoted.

9. An action which terminates a term promotion at the completion of the project or specified period, or at the end of a rotational assignment, and returns the employee to the position from which promoted or to a different position of equivalent grade and pay in accordance with 5 CFR 335.102 (f).

10. The content of the critical elements and performance standards of an employee's position.

11. Nonadoption of a suggestion or disapproval of a quality step increase, performance award, or other kind of discretionary award, including SES performance awards and Presidential Rank awards for members of the SES.
12. Termination of an employee serving a probationary or trial period after initial appointment for unsatisfactory performance or conduct.


14. Evaluation of performance for a member of the Senior Executive Service.

15. Return of any employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the probationary period.

16. Relief specified that is not personal to the grievant or is not subject to the control of management.

17. A grievance over a matter covered by a negotiated grievance procedure.

18. Grievances concerning the number of positions to be filled, or the grade level at which positions are advertised or filled.

19. An action taken in accordance with the terms of a formal agreement voluntarily entered into by an employee that: (a) assigns the employee from one geographical location to another or (b) returns an employee from an overseas assignment.

20. Separation of employees with less than 1 year of current continuous employment appointed under authority of Schedule A or Schedule B.

21. A performance appraisal or overall rating assigned under the performance appraisal system (requests for review of these should be processed in accordance with provisions contained in VA Directive and Handbook 5013, Performance Management Systems);

22. Terminations of temporary appointments.
1. **PURPOSE**: To establish this Medical Center’s policy on providing assistance to employees to enable them to address and overcome personal problems that can adversely affect their job performance.

2. **POLICY**:

   A. It is the policy of this Medical Center to assist employees to be fully productive on the job. To this end, the Employee Assistance Program (EAP) has been established to provide free, confidential short-term counseling to identify and overcome such problems as alcohol and drug abuse, work and family pressures, legal and financial problems, job stress, and other concerns that can adversely affect an employee’s performance, reliability, and personal health.

   B. The James J. Peters VA Medical Center recognizes alcoholism and drug abuse as treatable health problems and is not concerned with employees’ use of alcohol except as it may affect their job performance or the efficiency of the service. However, this agency does not condone employee drug activity, within or outside the Medical Center, that is contrary to law. This Medical Center recognizes that there can be a relationship between alcoholism, drug abuse, and other illnesses properly treated by mental health professionals and deficiencies in employee job performance and conduct. It is to the mutual benefit of the Medical Center and its employees that assistance be available to employees in locating professional help in order to correct problems of this type.

   C. The EAP program affords reasonable accommodation, as appropriate, to employees suffering from the disabling conditions of alcohol or other drug abuse by an offer of rehabilitative assistance. EAP services may be made available to immediate family members, as needed, in assisting the employee.

   D. No employee will have job security or promotion opportunities jeopardized by a request for counseling or referral assistance.

   E. The Medical Center guarantees the confidentiality of all records established in connection with Employee Assistance Program.

3. **DEFINITIONS**:

   A. **Alcoholism**. A chronic disease or behavior characterized by repeated excessive drinking that interferes with the individual's health, interpersonal relations, economic functioning, or standing in the community. Alcoholism may take several years to reach the chronic phase and, if untreated, may be fatal. For the purpose of this policy, alcoholism is defined as a health problem in which the employee's job performance or conduct are impaired as a direct consequence of the abusive use of alcohol.

   B. **Alcoholic**. An individual who has the illness of alcoholism. The person's drinking is out of control and is self-destructive in many different ways. The term "recovering alcoholic" describes the person who has undergone rehabilitation and whose disease has been arrested through abstinence.
C. **Drug Abuse.** A health problem characterized by the use of a drug in a manner or to a degree that interferes with the individual's health, interpersonal relations, economic functioning or standing in the community. For the purpose of this policy, drug abuse is defined as a health problem in which the employee's job performance or conduct are impaired as a direct consequence of the use of drugs.

D. **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 are adversely affecting the employee's job performance or conduct.

4. **RESPONSIBILITIES AND PROCEDURES:**

A. **Employees:**

(1) Employees who suspect they may have a problem with alcoholism or drug abuse, even in the early stages, or who may have any other problem that is interfering with their personal or work life and that may be treatable by a mental health professional, are encouraged to voluntarily seek counseling and information. To obtain confidential assistance, the employee should call the office of the Employee Assistance Program (EAP). It is the employee’s responsibility to follow through with the referral from EAP, and it is the employee’s responsibility to make the necessary financial arrangements for this treatment.

(2) Employees may voluntarily participate in EAP or their supervisor may refer them for counseling on personal, alcohol, and/or drug problems that adversely affect work performance or conduct.

(3) Except as otherwise provided in paragraph 6a(4), failure to voluntarily participate in counseling or in a rehabilitative program at the referral of a supervisor can not be used as the basis for taking disciplinary action against an employee.

(4) Employees who fail to improve their conduct or performance, after a referral to the EAP, may have a conduct or performance-based action initiated against them.

(5) The Department’s Plan for a Drug-Free Workplace provides that employees may be subject to disciplinary action, including removal from service, for refusing to obtain counseling or rehabilitation after having been found to use drugs, or for refusing to take a drug test when required.

(6) Costs associated with treatment (beyond the assessment sessions provided by the EAP counselor) are the responsibility of the employee. Employees can use their Federal Employees Health Benefits plan for financial assistance with covered services.

(7) With supervisory approval, employees may be allowed up to one hour (or more as necessitated by travel time) of excused absence for each counseling session during the assessment/referral phase. Thereafter, absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category in accordance with law and leave regulations.
B. Supervisors:

(1) Supervisors are responsible for recognizing when employees become deficient in job performance or conduct. 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 it may even be a life-saving measure. Therefore, supervisors should:

(a) Be observant of work 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 personal problems that may be impacting negatively on performance, attendance, or other job-related factors.

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

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

(d) Interview the employee by focusing on the poor work performance or conduct and providing information about the Employee Assistance Program services if such performance or conduct problems appear to be caused by a personal or health problem.

(e) In those cases where employees refuse help and their performance or conduct continues to be unsatisfactory, provide a firm choice between, on the one hand, accepting Department assistance through counseling or professional diagnosis of the problem, and cooperating in the appropriate treatment if indicated, or, on the other hand, accepting the consequences provided for the unsatisfactory performance and conduct.

(f) Refrain from discussing the possibility of a drug or alcohol problem with an employee, except in the following situations:

(i) When an employee does not appear to be in full control of faculties: Then the supervisor should inquire about the employee's physical condition, relay the information on the case to the Employee Health Unit, refer the employee to the Employee Health Unit for diagnosis and emergency treatment, and ultimately refer the employee to the Employee Assistance Program.

(ii) 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 therefore be careful not to elicit or entertain from the employee any specificity or detail about the nature of any illegal activity or conduct. 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. They may therefore first
report the known facts to law enforcement authorities by contacting the Office of Regional Counsel or, if the illegal activity is occurring on VA property, the Medical Center’s Police and Security Program, as appropriate.

C. EAP Staff:

(1) In addition to an EAP Coordinator, the EAP program may be augmented by counseling staff on a collateral basis. The EAP staff is responsible for advising supervisors and employees of the intent and procedures of this policy. The staff will keep abreast of policy changes, periodically update counseling skills, and continually collaborate with the Chief of Administrative Medicine and the Chief of the Social Work Program 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.

(2) The EAP Coordinator will:

(a) Advise management in planning, developing, and implementing policies, programs, and systems to manage EAP;
(b) Provide and interpret VHA policies and standards for the EAP;
(c) Provide oversight of the EAP;
(d) Provide Medical Center officials with technical assistance and consultative services for complex EAP issues;
(e) Coordinate the Program with both external sources and internal VA offices;
(f) Issue policy statements and implementing instructions;
(g) Develop and maintain programs for short-term counseling (not to exceed 6 to 8 visits) and/or referral services for employees with personal problems (e.g., emotional, financial, legal), alcohol, and/or drug abuse problems;
(h) Proactively develop or arrange for new programs to assist the general Medical center employee population in improving their morale and productivity – such as stress management, smoking cessation, wellness, etc.;
(i) Provide for education and awareness programs to inform employees of the counseling and referral services and to emphasize prevention, early intervention, and treatment;
(j) Provide for training to help managers and supervisors recognize (NOT diagnose) early signs of potential problems, which could involve alcohol/drug abuse, and to understand confrontation and referral procedures.

(3) When consulted by an employee, whether voluntarily or by management referral, the EAP staff should:

(a) Thoroughly advise the employee of the intent, procedures, and confidentiality of the program. No EAP 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 regarding appropriate steps. The counselor, as appropriate, should advise the employee that continued disclosure will result in termination of counseling services.

(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. The employee should be informed 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 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 during and after treatment. Such counseling services should be short-term since treatment and rehabilitation at Government expense generally are prohibited. However, employees who are veterans may be entitled to treatment under applicable laws and regulations.

(d) The EAP staff will refer the employee to an appropriate agency for rehabilitation or other treatment if the employee wishes assistance. The staff will also give AFGE bargaining unit employees information sheets provided by the Union indicating that the union is affiliated with the New York City Central Labor Councils, AFL-CIO, Community Services Committee, and that any union member may contact the local union office or the Committee directly for information concerning treatment resources within the community.

(e) (Except for counseling and referral services provided by the Medical Center’s Employee Assistance Program, no employee will receive treatment from the VA for drug abuse, alcoholism, or personal biopsychosocial problems unless the employee is eligible for treatment as a veteran beneficiary. In order to maintain the confidentiality of patient-employees, employees who are eligible for treatment as veterans will be encouraged to seek treatment at another VA facility.

(3) The Employee Assistance Program will assure that confidential records are kept and that statistical information is provided to the Human Resources Management Program upon request for completion of the required annual report on this program.

(4) The EAP staff has two 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 problem and any resultant diagnosis.
D. Employee Health Unit:

In addition to providing emergency care treatment, the Employee Health Unit will be responsible for providing medical consultation to coordinators, counselors, supervisors, and employees concerning employee health problems. This consultation will be most helpful in offering effective guidance to employees if Health Unit personnel are fully informed of program policies and the responsibilities and capabilities of the counseling staff.

E. Human Resources:

The Human Resources Management Program will provide advice and assistance to the EAP Coordinator in implementing this program.

F. Confidentiality of Records:

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. Employee Assistance Program records are also maintained under the authority of 5 U.S.C. 7361, 7362, 7901, and 7904; 42 U.S.C. 290dd-3 and 290ee-3. The 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). Under 42 CFR Part 2, any instances of suspected child abuse and neglect must be reported to appropriate State or local authorities. Also, when a client commits, or threatens to commit, a crime that would harm someone else or cause substantial property damage, law enforcement personnel must be informed.

5. AUTHORITIES AND REFERENCES:

A. 5 U.S.C. 552a establishes requirements governing the maintenance of records by agencies pertaining to individuals and access to these records by the individual(s) to whom they pertain.

B. 5 U.S.C., Chapter 73 requires Federal agencies to develop appropriate prevention, treatment, and rehabilitation programs and services for drug abuse, alcohol abuse, and alcoholism among employees.

C. 5 U.S.C., Chapter 79 authorizes Federal agencies to establish health service programs to promote and maintain the physical and mental fitness of employees of the Federal Government.

D. Executive Order 12564, dated September 15, 1986, “Drug-Free Federal Workplace,” established the goal of a Drug-Free Workplace through education and training programs, drug testing programs, and employee assistance programs.

E. 5 CFR Part 792 requires Federal agencies to: Provide prevention, treatment, and rehabilitation services to Federal civilian employees with alcohol and/or drug abuse problems; establish and administer short-term counseling and/or referral programs to assist civilian employees with alcohol and/or drug abuse problems; issue internal program instructions; and submit an annual fiscal year report to the Office of Personnel Management (OPM) on their counseling activities.

F. 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records, prohibits
disclosure of information without the patient’s written consent.

G. Comptroller General (CG) Decision B-187074, dated November 7, 1977, holds that under 5 U.S.C. 7901, an agency may expend appropriated funds for the procurement of diagnostic and preventive psychological counseling services. Such services should not include treatment, but rather problem identification, referral for treatment or rehabilitation and follow-up to aid an employee in effective readjustment on the job during and after treatment.

H. Comptroller General Decision B-226569, dated November 30, 1987, allows reimbursement for local travel expenses for visits to an EAP Counselor at a different location when an agency determines that the travel is advantageous to the government.

I. VHA Plan for a Drug Free Workplace that was certified to Congress by the Department of Health and Human Services on April 27, 1988, as meeting the requirements of Public Law 100-71 (codified at 5 U.S.C. Section 7301), and Executive Order 12564 on Drug-Free Workplace Programs. The Secretary of Agriculture and the Department of Health and Human Services have approved all subsequent changes and modifications made to the 1988 certified plan.

J. VA HANDBOOK 5019, Occupational Health Services, PART VI. Employee Assistance Program

K. MP-1, Part II, Chapter 21

L. Title 21, U.S.C. 1101

6. **RECISSION:** Policy Memorandum 00-309, dated July 24, 2003

7. **POLICY FORMULATION:** Human Resources Management Program (05)
Principles of Ethical Conduct for Government Officers and Employees

To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:

1. Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.

2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.

3. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

4. An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

5. Employees shall put forth honest effort in the performance of their duties.

6. Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.

7. Employees shall not use public office for private gain.

8. Employees shall act impartially and not give preferential treatment to any private organization or individual.

9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those -- such as Federal, State, or local taxes -- that are imposed by law.

13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.

Reference:

- Principles of Ethical Conduct for Government Officers and Employees
- Executive Order 12731 of October 17, 1990
Statement of Organization Ethics / Conflict of Interest

1. **Purpose:** The JJP VA Medical Center has established this Statement of Organizational Ethics in recognition of the ethical responsibility a health care organization has to the patients and community it serves.

2. **Policy:**

   A. It is the policy of the JJP to conduct business and patient care in an ethical manner.
   B. The Code of Conduct (see attachment L) will be included in NEO and will be reviewed and signed annually by all staff.
   C. The Compliance and Integrity Reporting Tracking System (CIRTS) will be utilized as a help line for persons to report any Code of Conduct issues and also as a tracking mechanism for issues that are reported.
   D. Issues of patient safety are addressed via the Patient Safety Officer and Risk Management.
   E. The Hospital Director may authorize an administrative investigation to examine and allegation of waste, fraud, abuse, and other wrongdoing. Generally, resources are provided and deadlines set to ensure that the completed investigative report is delivered to the Convening Authority within 45 days of the date the Administrative Investigation Board is convened. A variety of VA organizations, other federal agencies, and state agencies may have jurisdiction over matters that could also be the subject of an administration investigation. In the event that an outside authority is conducting the investigation, the deadline for completion may exceed 45 days depending on the complexity of the case.
   F. Nationally, the Office of the Inspector General (OIG) has established a Combined Assessment Program (CAP), which assesses VA medical facilities and regional offices on a cyclic basis. During the CAP reviews, the Inspector General offices conduct fraud and integrity awareness training to raise employee awareness of fraudulent activities that can occur in VA programs. Inspector General CAP review provides facilities with reports of their findings within 30 days. In general, facility responses to recommendations for improvement are required within 15 days of receipt of the draft report unless other guidance is provided for a specific report.

3. **Responsibilities:**

   A. Employees must place loyalty to the public trust above anyone's private gain in order to prevent a conflict of interest or the appearance of a conflict of interest.
   B. Employees must abide by all federal rules and regulations governing the acceptance or giving of gifts (see 5 C.F.R., Part 2635) (detailed in Policy Memorandum 00-312).
   C. Employees must review the 14 Principles of Ethical Conduct, the Code of Conduct and the Human Resources Annual Employee Notice annually.
   D. The Chief, Fiscal Service Line has the responsibility to immediately report all over expenditures or other financial management violations in conjunction with the Anti-Deficiency Act once aware of the violation.

4. **Procedures:** Our behavior is, and will be, guided by a dedication to the principle that all patients, employees, volunteers, and visitors deserve to be treated with dignity, respect, and courtesy.

   A. Respect for Patients
1. JJP is committed to providing quality medical care in an atmosphere in which the human needs and concerns of the patient are met and his/her individual rights and interests are protected.

2. This atmosphere must be based on care which is provided in a courteous, concerned, and compassionate manner.

3. Patients and their families, or significant others, will be involved in decisions regarding the care that we deliver to the maximum extent practical. In some situations, a patient with decision-making capacity might for one reason or another, elect not to involve family members. Under these circumstances, patient privacy and confidentiality require that those wishes be respected and honored and that the family not be informed or involved.

4. We will constantly strive to understand and respect patients' and their families' objectives and competent decisions for care.

5. In all circumstances we will treat patients in a manner giving reasonable thought to their background, culture, religion, heritage, and personal beliefs.

B. Informed Consent

1. It is the policy that every patient has the right to information that a patient in similar circumstances would reasonably want to know, in language that is understandable to the patient to make an informed decision regarding his/her care. Practitioners must inform patients of the purpose and description of any diagnostic/therapeutic procedures, expected results of both consenting to and foregoing proposed procedures, significant risks, and alternative treatments in language that is understandable to the patient.

2. All patients involved in research protocols will be accorded the informed consent procedures.

C. Avoidance of Conflicts of Interest

1. Employees must not use their positions, including official time, information, property, or endorsements, for personal gain or the private gain of anyone.

2. Employees will not solicit or recruit VA patients into their private practices or businesses for treatment, services, or supplies that can be provided to the veteran and or by the VA.

3. Employees may not hold financial interests that conflict with the conscientious performance of duty; or use public office for private gain.

4. Employees may not demonstrate partiality or preferential treatment to any private organization or individual.

5. Employees may not engage in outside employment or activities, including seeking or negotiating employment that conflicts with official government duties and responsibilities.

D. Definition of Conflict of Interest - Any health care provider who feels there is a conflict of interest in patient management or in their relationship with JJP VA Medical Center must immediately contact their supervisor. No Government employee may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who: (a) has or is seeking to obtain Government business with the employee’s agency, (b) conducts activities that are regulated by the employee’s agency, or (c) has interests that may be substantially affected by the performance or nonperformance of the employee’s official duties. This specifically includes all vendors seeking business with the JJP. Hospital staff may not: hold financial interests that conflict with the conscientious performance of duty; use public office for private gain; or
engage in outside employment or activities that conflict with official government duties and responsibilities.

E. Recognition of Potential Conflicts of Interest - We recognize that the potential for conflicts of interest exists for decision-makers at all levels within the JJP VA Medical Center. This includes members of the administration, the medical staff, and all other employees. It is our policy to request the disclosure of potential conflicts of interest so that appropriate action may be taken to ensure that such potential conflicts do not inappropriately influence important decisions or appear to do so. All employees are urged to confer with their supervisor about potential conflicts of interest as they come up.

Employees who fill out Standard Form 278 Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT, OGE Form 450, CONFIDENTIAL FINANCIAL DISCLOSURE FORM, or who are required to sign VHA Handbook 1660.3 must also sign a form acknowledging they understand VHA's policy regarding conflicts of interest. In addition all clinicians that are credentialed and privileged also receive additional training on conflict of interest and sign an attestation statement certification of training. Any staff member may consult the Ethics Advisory Committee for guidance in the event of a potential conflict of interest.

F. Process for Addressing Conflict of Interest or Potential Conflict of Interest - Any employee, other than the Hospital Director, who thinks that he or she has a potential or existing conflict of interest, will use the following procedure:

1. Discuss the potential or existing conflict of interest with his or her supervisor.
2. If the problem is not resolved at the service level, the supervisor will go to the appropriate resource to investigate VHA regulations and applicable law on the issue.
3. If the problem is still not resolved, the matter will be referred to the Ethics Advisory Committee for consultation or the Compliance Committee. The matter may be elevated to Hospital Director.
4. The Hospital Director, or his or her designee, has several options in addressing the matter:
   a. Discuss it with the Regional Counsel
   b. Convene an ad-hoc committee to address the particular situation.
   c. Delegate the matter to the appropriate VA official for resolution.

The Hospital Director has final responsibility for making decisions about conflict of interest issues. The Regional Counsel is responsible for making decisions in a situation in which the Hospital Director has a conflict of interest or potential conflict of interest.

From time to time conflicts will arise among those who participate in hospital and patient care decisions. Whether this conflict is between members of administration, medical staff, employees, or between patient caregivers and the patient (or the patient's family/significant other), we will strive to resolve all conflicts fairly, objectively, and at the level most directly involved with the conflict. In cases where mutual satisfaction cannot be achieved, it is the policy of this hospital to involve the Patient Advocate, Customer Service Representative, appropriate service chief or designee, to oversee the resolution/mediation of the conflict. Other staff and second opinions will be sought as needed to pursue a mutually satisfactory resolution.
G. **Ethical Business Practices** - Our medical and business decisions are based on the best possible care for our patients, not our personal financial interests.

1. Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none.

2. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct.

3. The general rule is to strictly avoid any conflict of interest in Government-contractor relationships. As a rule, no Government employee may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who:
   - Has or is seeking to obtain Government business with the employee’s agency,
   - Conducts activities that are regulated by the employee’s agency, or
   - Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.

4. Employees shall disclose waste, fraud and abuse and corruption to appropriate authorities. Employees can disclose waste, fraud and abuse and corruption to their immediate supervisor, service/service line manager, hospital leadership or to the Veterans Administration (VAOIG) Office of the Inspector General. The website for the VAOIG is [http://www.va.gov/oig/homepage.htm](http://www.va.gov/oig/homepage.htm). The VAOIG relies on concerned VA employees and citizens to provide information regarding alleged fraud, waste, and mismanagement in the VA.

5. Employees shall satisfy in good faith their obligations as citizens, including all financial obligations, especially those such as Federal, State, or local taxes that are imposed by law.

6. Employees shall adhere to all laws and regulations governing federal employees including those that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age or handicap.

7. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this Code of Conduct. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

H. **Fair Billing Practices** – In compliance with existing federal regulations and public law, JJP VAMC will bill applicable veterans and/or third parties for non-service-connected treatment actually provided to the veterans and will provide assistance to veterans seeking to understand the cost relative to their care. According to federal regulations some veterans may be required to pay a co-pay for pharmacy or medical treatment of non-service connected conditions. An effort will be made to resolve questions and/or complaints in a tactful, courteous, and timely fashion in the best interest of both the patient and the health care system.

5. **References:**

- JJP Policy 00-312 “Standard of Ethical Conduct”, November 15, 2007
- VHA Handbook 1660.03 "Conflict of Interest Aspects of Contracting for Scarce Medical Specialist Services, Enhanced use Leases, Health Care Resource Sharing, Fee Basis and Intergovernmental Personnel Act Agreements (IPAS)", September 22, 2008
- JJP Policy 00-037 "Intergraded Ethics", September 14, 2009
- JJP Policy 00-235 "Rules and Ethics to be Observed by VA Medical Center Volunteers", December 20, 2007
EVALUATION OF MEDICAL RESIDENT PERFORMANCE, 
AND RESIDENT GRIEVANCE PROCEDURES

1. PURPOSE:
A. To describe the evaluation of residents in the Mount Sinai (Bronx VA) Residency Program in Internal Medicine.
B. To describe processes for improving residents’ performance.
C. To describe the role of the Internal Medicine Residents Education Committee (IMREC) in the evaluation and grievance process.

2. POLICY:
This policy refers only to the residents in the Mount Sinai (Bronx VA) Residency Program in Internal Medicine.

It is the policy of the IMREC at the James J. Peters VA Medical Center to maintain the standard of residency training as defined by the ACGME (Accreditation Council for Graduate Medical Education) and its RRC (Residency Review Committee). This is achieved in the Medical Residency Program in concert with the IMREC. The latter is responsible for the resolution of issues related to resident evaluation and feedback. The IMREC is authorized to make recommendations and to supervise decisions related to substandard evaluations during a curriculum-based rotation. This policy memorandum defines how residents are evaluated at the James J. Peters VA Medical Center and how a grievance regarding one or more evaluations can be pursued.

3. DEFINITIONS:
A. Resident training: As described in the curriculum, medical residents will be trained in six competencies: patient care, medical knowledge, practice based learning, interpersonal and communication skills, professionalism and system based practice.

B. Resident evaluation: As described in the curriculum, medical residents will be evaluated on the six competencies i.e. patient care, medical knowledge, practice based learning, interpersonal and communication skills, professionalism and system based practice after each rotation.

C. Comprehensive evaluation: The comprehensive review of resident’s performance includes
  1) resident evaluation by attendings
  2) resident evaluation by residents
  3) resident evaluation by the nursing and paramedical staff
  4) resident evaluation by patients.

4. RESPONSIBILITIES:
A. Supervising Attending: At the end of each rotation it is the responsibility of the supervising attending to evaluate the medical resident either in writing or online.
B. IMREC Committee: The IMREC is the Medical Program committee on medical resident evaluation and feedback. The committee consists of the GME Director, the Internal Medicine Residency Program Director, the Assistant Director of the Internal Medicine Residency Program, plus additional faculty and Chief or Senior Residents who may be co-opted ad hoc for the purposes of considering specific issues relating to the residency education, evaluation and retention of residents.

5. PROCEDURES:

A. A portfolio / paper folder is maintained for each medical resident in a secure file cabinet located in 7A-11. It contains all the evaluations, curricula vitae, correspondence, and information about academic and research achievements. Residents are required to submit copies of off-campus elective evaluations and records of scholarly activities. This folder is available to residents for their review upon request.

B. At the start of each rotation the supervising attending should indicate to the residents what the expectations are of the residents during that rotation.

C. Resident clinical competence is evaluated on an ongoing basis:

1) At the end of each rotation, the supervising attending evaluates online at www.myevaluations.com; and/or www.new-innov.com those residents whom he has supervised. In addition, the supervising attending should verbally discuss the evaluation with the resident at the end of each rotation.

2) In the out-patient or primary care setting, residents are evaluated on a Mini Clinical Examination (CEX) and Six Competencies after each Primary Care Practice (PCP) block.

3) A resident is observed by a supervising attending while he/she is presenting a journal club, evidence-based discussion or topic presentation. An evaluation is filled out by the supervising attending and is filed in the resident’s portfolio.

4) A resident is evaluated by the program director during PGY-1 and PGY-2 case presentations.

5) A resident is evaluated on a yearly basis by other members of the health care team i.e. nurses, social workers and clerk (part of so-called 360 degree evaluation process).

6) A resident meets the assistant training residency program director on a yearly basis to discuss future goals, training satisfaction, procedure log and review of evaluations during an academic year.

7) Residents are encouraged to take in-training examinations each year. These are conducted under guidelines of the National Board of Medical Examiners (NBME) to identify weaknesses in clinical knowledge (this evaluation is used only for resident self-improvement).

D. It is the policy of the IMREC that a resident has to complete each rotation with at least a satisfactory evaluation. Failure to do so will result in a review by the IMREC Committee. The IMREC will make appropriate recommendations to improve the resident training and performance. These will include but are not limited to a) discussion with Program Director in person and placing the resident on academic observation b) repetition of rotation or c) academic
probation. Failure to improve and follow recommendations will result in suspension, or
expulsion from the training program.

E. The resident may appeal the findings of the IMREC committee within two weeks of
receiving its written recommendations. The resident may appeal in person or in writing to the
James J. Peters V.A. Graduate Medical Education Committee, where it will be dealt with in
terms of the Section 3 of the Bronx VA Policy Memorandum 002-132, Graduate Medical
Education Committee. If the resident disagrees with the outcome of this appeal, a second appeal
can be made to the Dean, Graduate Medical Education, Mount Sinai School of Medicine.

6. REFERENCES:
   ACGME Program Requirements for Residency Education in Internal Medicine, VI
   Performance Appraisal Program, Policy Memorandum 00-298, July 24, 2003
   Administrative Grievance Procedure; Chapter 78 title 38, V.A. Policy Memorandum 00-
   307, July 24th 2003
   GME Committee, Policy Memorandum 002-132, March 11, 2008
   Resident Supervision. Policy Memorandum 11-039, January 21, 2009
   JCAHO CAMH, current edition

7. RESCISSION: Policy Memorandum 11-037 dated April 28, 2006

8. POLICY FORMULATION: Director, Graduate Medical Education
   Residency Program Director

9. REVIEW: Annually

THEODOCIA C. FARRALES, RN, MA
Acting Chief Nurse Executive

ERIK LANGHOFF, MD, PhD
Chief of Staff

VINCENT F. IMMITIES
Associate Director

MARY ANN MUSUMECI
Medical Center Director
RESIDENT DUTY HOURS

1. PURPOSE: The purpose of this policy is to establish residents’ duty hours, in-house call frequency, rest times and days, and conditions under which moonlighting are allowed.

2. POLICY: It is the policy of the Medical Center to ensure the highest standards of patient care, and the highest quality of the educational experience of residents and fellows. To this end, this policy defines the maximum duty hours for residents (including fellows), consistent with the Accreditation Council for Graduate Medical Education (ACGME) and New York State guidelines.

3. DEFINITION: Duty hours are defined as those hours during which residents carry out all clinical and academic activities related to the residency, including patient care (inpatient and outpatient), administrative duties related to patient care, the provision for transfer of patient care, time spent in-house during call, and scheduled academic activities. Duty hours do not include reading and offsite preparation time.

4. RESPONSIBILITIES:

A. Residency Program Director is responsible for the overall academic and administrative structure of the Residency Program in each discipline.

B. VA Residency Program Coordinator for each discipline is responsible for the quality of the overall education and for ensuring that the program is in compliance with the policies of the respective accrediting and/or certifying bodies regarding resident duty hours. The VA Residency Program Coordinator is responsible for ensuring that:

   (a) Residents are limited to a maximum of 80 duty hours per week, including in-house call, averaged over a 4-week period.

   (b) Residents are provided 1 day out of 7 (averaged over a 4-week period) free from all clinical and educational responsibilities.

   (c) Residents are not scheduled for in-house call more than once every 3 nights, averaged over 4 weeks. At-home call is not subject to this restriction, but must be scheduled to allow rest and reasonable personal time for each resident.

   (d) Duty periods are not to exceed 24 hours, although residents may remain on duty for 3 additional hours to transfer patients, maintain continuity of care, or participate in educational activities. No new patients will be accepted after 24 hours of continuous duty.
(e) Residents are given at least 10 hours for rest and personal activities between daily duty periods and after in-house call.

(f) Moonlighting is not permitted except with the express permission of the Residency Program Director and the VA Residency Program Coordinator. Moonlighting must not interfere with educational goals and objectives. Both internal and external moonlighting counts toward the weekly limit of 80 hours.

5. PROCEDURE/PROCESS:

The structuring of duty hours and on-call schedules are monitored regularly by the Residency Program Director and the VA Residency Program Coordinator for compliance with Accreditation Council for Graduate Medical Education and New York State guidelines, and are to be reported to the Graduate Medical Education Committee. This policy is to be distributed to residents and faculty, once a year.

6. REFERENCES:

New York State Residency Working Hours and Hospital Code Regulations, 405.4(b)(6).

7. RESCISSION: Policy Memorandum 11-197, dated March 11, 2010

8. POLICY FORMULATION: Director, Graduate Medical Education, and Chief of Staff

9. REVIEW: Annually

KATHLEEN L. CAPITULO, RN, DNSc
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