

§ 7402. Qualifications of appointees

(a) To be eligible for appointment to the positions in the Administration covered by subsection (b), a person must have the applicable qualifications set forth in that subsection.

(b)(1) **PHYSICIAN.**—To be eligible to be appointed to a physician position, a person must—

(A) hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Secretary,

(B) have completed an internship satisfactory to the Secretary, and

(C) be licensed to practice medicine, surgery, or osteopathy in a State.

(2) **DENTIST.**—To be eligible to be appointed to a dentist position, a person must—

(A) hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Secretary, and

(B) be licensed to practice dentistry in a State.

(3) **NURSE.**—To be eligible to be appointed to a nurse position, a person must—

(A) have successfully completed a full course of nursing in a recognized school of nursing, approved by the Secretary, and

(B) be registered as a graduate nurse in a State.

(4) **DIRECTOR OF A HOSPITAL, DOMICILIARY, CENTER, OR OUTPATIENT CLINIC.**—To be eligible to be appointed to a director position, a person must have such business and administrative experience and qualifications as the Secretary shall prescribe.

(5) **PODIATRIST.**—To be eligible to be appointed to a podiatrist position, a person must—

(A) hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Secretary, and

(B) be licensed to practice podiatry in a State.

(6) **OPTOMETRIST.**—To be eligible to be appointed to an optometrist position, a person must—

(A) hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Secretary, and

(B) be licensed to practice optometry in a State.

(7) **PHARMACIST.**—To be eligible to be appointed to a pharmacist position, a person must—

(A) hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Secretary, and

(B) be registered as a pharmacist in a State.

(8) **PSYCHOLOGIST.**—To be eligible to be appointed to a psychologist position, a person must—

(A) hold a doctoral degree in psychology from a college or university approved by the Secretary,

(B) have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Secretary, and

(C) be licensed or certified as a psychologist in a State, except that the Secretary may

waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that that psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified.

(9) **SOCIAL WORKER.**—To be eligible to be appointed to a social worker position, a person must—

(A) hold a master's degree in social work from a college or university approved by the Secretary; and

(B) be licensed or certified to independently practice social work in a State, except that the Secretary may waive the requirement of licensure or certification for an individual social worker for a reasonable period of time recommended by the Under Secretary for Health.

(10) **MARRIAGE AND FAMILY THERAPIST.**—To be eligible to be appointed to a marriage and family therapist position, a person must—

(A) hold a master's degree in marriage and family therapy, or a comparable degree in mental health, from a college or university approved by the Secretary; and

(B) be licensed or certified to independently practice marriage and family therapy in a State, except that the Secretary may waive the requirement of licensure or certification for an individual marriage and family therapist for a reasonable period of time recommended by the Under Secretary for Health.

(11) **LICENSED PROFESSIONAL MENTAL HEALTH COUNSELOR.**—To be eligible to be appointed to a licensed professional mental health counselor position, a person must—

(A) hold a master's degree in mental health counseling, or a related field, from a college or university approved by the Secretary; and

(B) be licensed or certified to independently practice mental health counseling.

(12) **CHIROPRACTOR.**—To be eligible to be appointed to a chiropractor position, a person must—

(A) hold the degree of doctor of chiropractic, or its equivalent, from a college of chiropractic approved by the Secretary; and

(B) be licensed to practice chiropractic in a State.

(13) **Peer Specialist.**—To be eligible to be appointed to a peer specialist position, a person must—

(A) be a veteran who has recovered or is recovering from a mental health condition; and

(B) be certified by—

(i) a not-for-profit entity engaged in peer specialist training as having met such criteria as the Secretary shall establish for a peer specialist position; or

(ii) a State as having satisfied relevant State requirements for a peer specialist position.

(14) **OTHER HEALTH-CARE POSITIONS.**—To be appointed as a physician assistant, expanded-function dental auxiliary, certified or registered respiratory therapist, licensed physical therapist, licensed practical or vocational nurse, occupa-

tional therapist, dietitian, microbiologist, chemist, biostatistician, medical technologist, dental technologist, or other position, a person must have such medical, dental, scientific, or technical qualifications as the Secretary shall prescribe.

(c) Except as provided in section 7407(a) of this title, a person may not be appointed in the Administration to a position listed in section 7401(1) of this title unless the person is a citizen of the United States.

(d) A person may not be appointed under section 7401(1) of this title to serve in the Administration in any direct patient-care capacity unless the Under Secretary for Health determines that the person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable the person to carry out the person's health-care responsibilities satisfactorily. Any determination by the Under Secretary for Health under this subsection shall be in accordance with regulations which the Secretary shall prescribe.

(e) A person may not serve as Chief of Staff of a Department health-care facility if the person is not serving on a full-time basis.

(f) A person may not be employed in a position under subsection (b) (other than under paragraph (4) of that subsection) if—

(1) the person is or has been licensed, registered, or certified (as applicable to such position) in more than one State; and

(2) either—

(A) any of those States has terminated such license, registration, or certification for cause; or

(B) the person has voluntarily relinquished such license, registration, or certification in any of those States after being notified in writing by that State of potential termination for cause.

(g) The Secretary may enter into contracts with not-for-profit entities to provide—

(1) peer specialist training to veterans; and

(2) certification for veterans under subsection (b)(13)(B)(i).

(Added Pub. L. 102-40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 222; amended Pub. L. 102-86, title III, § 305(a), Aug. 14, 1991, 105 Stat. 417; Pub. L. 102-405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 106-117, title II, § 209, Nov. 30, 1999, 113 Stat. 1569; Pub. L. 106-419, title II, § 205, Nov. 1, 2000, 114 Stat. 1842; Pub. L. 108-170, title III, § 302(b), Dec. 6, 2003, 117 Stat. 2058; Pub. L. 109-461, title II, § 201(b), Dec. 22, 2006, 120 Stat. 3409; Pub. L. 110-387, title IV, § 405, Oct. 10, 2008, 122 Stat. 4129.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4105 and 4108(b) of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

AMENDMENTS

2008—Subsec. (b)(11). Pub. L. 110-387, § 405(a)(1), redesignated par. (11) relating to other health care positions as (14).

Subsec. (b)(13). Pub. L. 110-387, § 405(a)(2), added par. (13).

Subsec. (b)(14). Pub. L. 110-387, § 405(a)(1), redesignated par. (11) relating to other health care positions as (14).

Subsec. (g). Pub. L. 110-387, § 405(b), added subsec. (g). 2006—Subsec. (b)(10) to (12). Pub. L. 109-461 added par. (10) and the par. (11) relating to licensed professional health counselor and redesignated former par. (10) as (12).

2003—Subsec. (b)(10), (11). Pub. L. 108-170 added par. (10) and redesignated former par. (10) as (11).

2000—Subsec. (b)(9). Pub. L. 106-419 substituted “a person must—” and subpars. (A) and (B) for “a person must hold a master's degree in social work from a college or university approved by the Secretary and satisfy the social worker licensure, certification, or registration requirements, if any, of the State in which the social worker is to be employed, except that the Secretary may waive the licensure, certification, or registration requirement of this paragraph for an individual social worker for a reasonable period, not to exceed 3 years, in order for the social worker to take any actions necessary to satisfy the licensure, certification, or registration requirements of such State.”

1999—Subsec. (f). Pub. L. 106-117 added subsec. (f).

1992—Subsec. (d). Pub. L. 102-405 substituted “Under Secretary for Health” for “Chief Medical Director” in two places.

1991—Subsec. (b)(9), (10). Pub. L. 102-86 added par. (9) and redesignated former par. (9) as (10).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-170 effective at end of 180-day period beginning on Dec. 6, 2003, see section 302(h) of Pub. L. 108-170, set out as a note under section 7316 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 305(b) of Pub. L. 102-86 provided that: “The amendment made by subsection (a) [amending this section] does not apply to any person employed as a social worker by the Department of Veterans Affairs on or before the date of the enactment of this Act [Aug. 14, 1991].”

REQUIREMENTS RESPECTING BASIC PROFICIENCY IN SPOKEN AND WRITTEN ENGLISH OF APPOINTEES AFTER NOVEMBER 23, 1977

Section 4(a)(3) of Pub. L. 95-201 provided that: “Notwithstanding any other provision of law, with respect to persons other than those described in subsection (c) of section 4105 and subsection (f) of section 4114 of title 38, United States Code [former sections 4105(c) and 4114(f) of this title, see subsec. (d) of this section and section 7407(d) of this title] (as added by paragraphs (1) and (2) of this subsection), who are appointed after the date of enactment of this Act [Nov. 23, 1977] in the Department of Medicine and Surgery in the Veterans' Administration [now Veterans Health Administration of the Department of Veterans Affairs] in any direct patient-care capacity, and with respect to persons described in such subsections who are appointed after such enactment date and prior to January 1, 1978, the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs], upon the recommendation of the Chief Medical Director [now Under Secretary for Health], shall take appropriate steps to provide reasonable assurance that such persons possess such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such persons to carry out their health-care responsibilities satisfactorily.”

§ 7403. Period of appointments; promotions

(a)(1) Appointments under this chapter of health-care professionals to whom this section applies may be made only after qualifications have been satisfactorily established in accord-