

**Department of  
Veterans Affairs**

# Memorandum

Date: FEB - 7 2020

From: Deputy Under Secretary for Health for Operations and Management (10N)

Subj: Title 38 Disciplinary Appeals Board (DAB) Member Training  
(VIEWS #2368238)

To: Veterans Integrated Service Network (VISN) Directors (10N1-23)

1. The Veterans Health Administration (VHA), Office of Workforce Management and Consulting, in collaboration with the Office Human Resources and Administration, Employee Relations and Performance Management Service, is pleased to announce an upcoming training event, Title 38 Disciplinary Appeals Board Member Training, May 18-22, 2020. This course is designed to train Title 38 practitioners and Human Resources (HR) technical advisors to serve on DABs within VHA.

2. The DAB appeal process is a critical function within VA. DAB members act on behalf of the Under Secretary for Health to conduct timely adjudication of appeals from non-probationary, full-time Title 38 employees regarding major adverse actions involving a question of professional conduct or competence. HR technical advisors are appointed to assist DAB members by providing technical guidance to the Board. VA policy dictates that at least two of the three DAB members must be from the same occupational category as the appellant. The categories of occupations are physicians, dentists, podiatrists, chiropractors, optometrists, nurses, certified registered nurse anesthetists, and physician assistants.

3. Using the attached nomination forms, each VISN is asked to submit up to three nominations for clinicians and one HR technical advisor to attend the training. While trained members in every occupational category are needed, the following categories have been identified as needing additional trained members:

- Registered Nurses
- Certified Registered Nurse Anesthetists
- Physicians (all but especially Cardiology, Emergency Medicine, Pathology, and Surgery)

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4. After being trained, all participants will be expected to serve on at least one board per year but may not participate in appeals from their own facility, or typically, their own VISN. ***It is imperative that ALL nominees understand this commitment to serve on future boards.*** In addition, local management support for future service is absolutely critical and expected. While participant travel for this training must be funded by the local facility, travel to participate on future DABs will be funded by VHA Central Office.

5. Clinical nominees must be full-time, non-probationary employees appointed under Title 38 U.S. Code, section 7401(1), and have an up-to-date VetPro file. All nominees must be in good standing and demonstrate the skills and abilities required to serve in this capacity. In addition, using the attached nomination form, you must:

- a. Include a written supervisory recommendation certifying that the DAB member possesses the clinical knowledge and ethical standards necessary to assess the professional conduct and competence of their peers, and
- b. Certify that a recent review in VetPro has been conducted and none of the following disqualifying criteria are present:
  - i. Malpractice Issues:
    1. Three or more paid medical malpractice suits (regardless of dollar amount);
    2. Two or more paid medical malpractice suits totaling greater than \$100,000; or
    3. Any one paid medical malpractice suit over \$50,000.
  - ii. Licensure Probation or Restriction, for example:
    1. Employee is on probation or has a restriction on their practice of controlled substances;
    2. Employee is prohibited from examining female patients without a chaperone; and/or
    3. Employee is not allowed to supervise Advance Practice Registered Nurses or Physician Assistants.

6. VISN Directors must forward completed nomination forms to Ms. Terri McVay, Employee Relations, at [Terri.McVay@va.gov](mailto:Terri.McVay@va.gov) ***no later than February 28, 2020.*** Class size is limited, so not all nominees will be selected to attend the training. Selections will be based on need for occupations, specialties, geographic locations, etc. ***The nominees who are selected to***

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***attend the training will receive further instructions regarding formal registration procedures and travel information.*** The individuals you nominate must be available to attend the formal training course that is scheduled for May 18-22, 2020. The training location is not yet determined and will be provided soon.

7. Thank you for your support in this very important endeavor. If you have any questions, please contact Ms. Terri McVay at [Terri.McVay@va.gov](mailto:Terri.McVay@va.gov) or (205) 821-2446.

  
Renee Oshinski

Attachments