

TRANSFER OF FUNCTIONS

Transfer of functions of bureaus and reorganization, see note set out under section 5111 of this title.

**[§ 5133. Repealed. Pub. L. 114-328, div. A, title V, § 502(z)(1), Dec. 23, 2016, 130 Stat. 2104]**

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 285; Pub. L. 86-174, §2(2), Aug. 18, 1959, 73 Stat. 396; Pub. L. 87-649, §14c(15), Sept. 7, 1962, 76 Stat. 501; Pub. L. 89-288, §3, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 89-718, §35(2)-(4), Nov. 2, 1966, 80 Stat. 1120; Pub. L. 96-513, title V, §503(9), Dec. 12, 1980, 94 Stat. 2911; Pub. L. 103-337, div. A, title V, §504(b)(3), (5), Oct. 5, 1994, 108 Stat. 2751, related to rank of, pay and allowances for, and retirement of Bureau Chiefs.

TRANSFER OF FUNCTIONS

Transfer of functions of Offices of Bureau Chiefs, see note set out under section 5111 of this title.

**[§ 5134. Repealed. Pub. L. 87-649, § 14c(16), Sept. 7, 1962, 76 Stat. 501]**

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 286, prescribed pay of deputy chiefs of bureaus. See Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

**§ 5135. Bureau Chiefs: succession to duties**

(a) When there is a vacancy in the office of chief of a bureau, or during the absence or disability of the chief of a bureau, the deputy chief of that bureau, unless otherwise directed by the President, shall perform the duties of the chief until a successor is appointed or the absence or disability ceases.

(b) When subsection (a) cannot be complied with because of the absence or disability of the deputy chief of the bureau, the heads of the major divisions of the bureau, in the order directed by the Secretary of the Navy, shall perform the duties of the chief, unless otherwise directed by the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 286.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
5135(a) .....	5 U.S.C. 445 (less 1st 43 words).	Aug. 29, 1916, ch. 417, 39 Stat. 558 (3d par., 45th through 95th words).
	5 U.S.C. 446 (last 49 words).	Mar. 3, 1893, ch. 212, 27 Stat. 717 (1st par., last 53 words); May 13, 1942, ch. 303, §1, 56 Stat. 276.
	5 U.S.C. 447 (25th through 74th words).	May 4, 1898, ch. 234, §1, 30 Stat. 373 (12th par., 41st through 92d words).
	5 U.S.C. 448a.	June 20, 1940, ch. 400, §1(f), 54 Stat. 493.
	5 U.S.C. 449 (last 51 words).	July 26, 1894, ch. 165, §1, 28 Stat. 132 (3d par., last 56 words); July 11, 1919, ch. 9, 41 Stat. 147 (1st proviso).
	5 U.S.C. 452 (less 1st 35 words).	July 12, 1921, ch. 44, §8 (3d par., less 1st 35 words), 42 Stat. 140.
5135(b) .....	5 U.S.C. 432a (less applicability to JAG).	Feb. 3, 1942, ch. 35, §1 (less applicability to JAG), 56 Stat. 47.

In subsection (a) all the provisions covering succession in case of the absence of the chiefs of the various bureaus are integrated and uniformly stated.

That part of 5 U.S.C. 448a, enacted in the Act of June 20, 1940, ch. 400, §1(f), 54 Stat. 493, relating to the succession by heads of major divisions of the Bureau of Ships is superseded by the Act of Feb. 3, 1942, ch. 35, §1 (5 U.S.C. 432a).

TRANSFER OF FUNCTIONS

Transfer of functions of Offices of Bureau Chiefs, see note set out under section 5111 of this title.

**[§ 5136. Repealed. Pub. L. 86-174, §2(3), Aug. 18, 1959, 73 Stat. 396]**

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 286, related to appointment, qualifications and term of Chief of Bureau of Aeronautics, and authorized detail of an officer as Deputy Chief of Bureau.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1960, or any earlier date on which the Secretary of the Navy makes formal finding that all the functions of the Bureau of Aeronautics and the Bureau of Ordnance have been transferred to the Bureau of Naval Weapons or elsewhere, see note set out under section 5131 of this title.

**§ 5137. Surgeon General: appointment; duties**

(a) APPOINTMENT.—The Surgeon General of the Navy shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active-duty list of the Navy in any corps of the Navy Medical Department.

(b) DUTIES.—(1) The Surgeon General serves as the Chief of the Bureau of Medicine and Surgery and serves as the principal advisor to the Secretary of the Navy and the Chief of Naval Operations on all health and medical matters of the Navy and the Marine Corps, including strategic planning and policy development relating to such matters.

(2) The Surgeon General serves as the chief medical advisor of the Navy and the Marine Corps to the Director of the Defense Health Agency on matters pertaining to military health readiness requirements and safety of members of the Navy and the Marine Corps.

(3) The Surgeon General, acting under the authority, direction, and control of the Secretary of the Navy, shall recruit, organize, train, and equip, medical personnel of the Navy and the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 286; Pub. L. 89-288, §4, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 96-513, title V, §503(10), Dec. 12, 1980, 94 Stat. 2912; Pub. L. 104-106, div. A, title V, §506(b), Feb. 10, 1996, 110 Stat. 296; Pub. L. 114-328, div. A, title VII, §702(b)(2)(A), Dec. 23, 2016, 130 Stat. 2195.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
5137(a) .....	5 U.S.C. 432. 5 U.S.C. 438. 5 U.S.C. 440 (less applicability to Paymaster General).	R.S. 421. R.S. 426. R.S. 1471 (less applicability to Paymaster General); June 20, 1940, ch. 400, §1(a), 54 Stat. 492.
5137(b) .....	5 U.S.C. 451 (less last 10 words).	R.S. 1375 (less last 10 words); Feb. 27, 1877, ch. 69, §1, 19 Stat. 244.

In subsection (a) the words “from officers on the active list of the Navy in the Medical Corps” are substituted for the words “from the list of Surgeons of the Navy” to conform to present statutory terminology,

and the words “or from officers having the rank of captain in the staff corps of the Navy” are omitted as obsolete in view of the subsequent changes in staff corps grades and the establishment of grades and ranks higher than captain in the staff corps. R.S. 421 and 426 were derived from the Act of July 5, 1862, ch. 134, 12 Stat. 510, and the Act of Mar. 3, 1871, ch. 117, §10, 16 Stat. 537. The Act of July 5, 1862, provided that the Chief of the Bureau of Medicine and Surgery should be appointed from the list of surgeons in the Navy. At that time the senior medical officers were “surgeons” who “ranked with” commanders. Next junior to them were “surgeons” who “ranked with” lieutenants. The rank of lieutenant commander did not exist. The Act of Mar. 3, 1871, established five grades in the Medical Corps of which two, medical director and medical inspector, were higher than the grade of surgeon. Medical directors were given the relative rank of captain, medical inspectors the relative rank of commander, and surgeons the relative rank of lieutenant commander or lieutenant. The 1871 Act further provided that chiefs of bureaus might be appointed from officers having the relative rank of captain in the staff corps. This provision was probably intended to insure that the assignment of new grades and titles to senior staff corps officers should not be construed as a bar to their appointment as bureau chiefs. However, it was interpreted by the Commissioners who drafted the Revised Statutes as setting up a new category of officers from which bureau chiefs could be appointed, and it was therefore stated, in R.S. 421, as an alternative to each of the other categories specified for the various Bureaus in the 1862 Act and reenacted in R.S. 422-426. Thus the Chief of the Bureau of Medicine and Surgery could be appointed from surgeons, who had the relative rank of lieutenant commander or lieutenant in the Medical Corps, or from officers having the relative rank of captain in the Medical Corps, Pay Corps, or Engineer Corps. Section 405 of the Officer Personnel Act of 1947 (34 U.S.C. 10a) abolished the grade of surgeon and other staff corps grades and replaced them with grades having the same titles as the grades and ranks in the line. Officers who were “surgeons” are now “lieutenant commanders and lieutenants in the Medical Corps.” If this literal translation is made in R.S. 426 and the eligibility of all staff corps captains, as stated in R.S. 421, is retained, an absurd result is reached; i.e., lieutenants, lieutenant commanders, and captains in the Medical Corps are eligible for appointment as Chief of the Bureau of Medicine and Surgery; but commanders and rear admirals in that corps are ineligible; captains, but not rear admirals, in other staff corps are eligible by virtue of their rank alone, regardless of their lack of training in medicine. It appears, therefore, that the only reasonable meaning that can be given to R.S. 421 and 426 at the present time is that the Chief of the Bureau of Medicine and Surgery must be an officer of the Medical Corps.

In subsection (b) the words “Deputy Chief of the Bureau” are substituted for the words “assistant to the Bureau” for uniformity. The words “An officer on the active list of the Navy in the Medical Corps” are substituted for the words “A surgeon, assistant surgeon, or passed assistant surgeon” to conform to present statutory terminology and to describe clearly the class of officers eligible for detail under this subsection. When the source statute was enacted there was no class of officers exactly corresponding to officers of the present Naval Reserve, and retired officers could be called to active duty only in time of war, so that the detailing of an officer not on the active list as assistant to the bureau chief was probably not contemplated. Further, since the assistant or deputy must at times perform the duties of the chief, it is reasonable to assume that he was intended to be in the same category of officers. Later statutes relating to the Assistant Chiefs of the Bureau of Aeronautics and the Bureau of Ships, enacted at a time when there were Reserve officers and when retired officers could be called to duty at any time with their consent, specify that the assistant chiefs shall be officers on the active list.

## AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to Chief and Deputy Chief of the Bureau of Medicine and Surgery.

1996—Subsec. (a). Pub. L. 104-106, §506(b)(1), substituted “in any corps of the Navy Medical Department” for “in the Medical Corps”.

Subsec. (b). Pub. L. 104-106, §506(b)(2), substituted “who is qualified to be the Chief of the Bureau of Medicine and Surgery” for “in the Medical Corps”.

1980—Pub. L. 96-513 substituted “active-duty list” for “active list” wherever appearing.

1965—Subsec. (a). Pub. L. 89-288 provided the Surgeon General, while so serving, with the grade of vice admiral.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

**§ 5138. Bureau of Medicine and Surgery: Dental Corps; Chief; functions**

(a) An officer of the Dental Corps shall be detailed as Chief of the Dental Corps.

(b) The Chief of the Dental Corps is entitled to the same privileges of retirement as provided for chiefs of bureaus in section 5133<sup>1</sup> of this title.

(c) All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

(d) The Chief of the Dental Corps shall—

(1) establish professional standards and policies for dental practice;

(2) initiate and recommend action pertaining to complements, strength, appointments, advancement, training assignment, and transfer of dental personnel; and

(3) serve as the advisor for the Bureau on all matters relating directly to dentistry.

(Aug. 10, 1956, ch. 1041, 70A Stat. 286; Pub. L. 87-649, §14c(17), Sept. 7, 1962, 76 Stat. 501; Pub. L. 96-513, title III, §342, Dec. 12, 1980, 94 Stat. 2901; Pub. L. 97-86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99-145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 109-364, div. A, title V, §593(a)-(d)(1), Oct. 17, 2006, 120 Stat. 2234; Pub. L. 114-328, div. A, title V, §502(aa), Dec. 23, 2016, 130 Stat. 2105.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5138 .....	5 U.S.C. 456b.	Dec. 28, 1945, ch. 604, §2, 59 Stat. 666.
	5 U.S.C. 456c.	Dec. 28, 1945, ch. 604, §3, 59 Stat. 666; Aug. 7, 1947, ch. 512, §427, 61 Stat. 880; Oct. 18, 1951, ch. 513, 65 Stat. 450.

## REFERENCES IN TEXT

Section 5133 of this title, referred to in subsec. (b), was repealed by Pub. L. 114-328, div. A, title V, §502(z)(1), Dec. 23, 2016, 130 Stat. 2104.

## AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328, §502(aa)(1), struck out “not below the grade of rear admiral (lower half)” after “officer of the Dental Corps”.

Subsec. (c). Pub. L. 114-328, §502(aa)(2), struck out first sentence which read as follows: “The dental functions of the Bureau of Medicine and Surgery shall be

<sup>1</sup> See References in Text note below.