

108TH CONGRESS  
1ST SESSION

# S. 648

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## AN ACT

To amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Pharmacy Education  
5       Aid Act of 2003”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Pharmacists are an important link in our  
4 Nation's health care system. A critical shortage of  
5 pharmacists is threatening the ability of pharmacies  
6 to continue to provide important prescription related  
7 services.

8 (2) In the landmark report entitled "To Err is  
9 Human: Building a Safer Health System", the Insti-  
10 tute of Medicine reported that medication errors can  
11 be partially attributed to factors that are indicative  
12 of a shortage of pharmacists (such as too many cus-  
13 tomers, numerous distractions, and staff shortages).

14 (3) Congress acknowledged in the Healthcare  
15 Research and Quality Act of 1999 (Public Law 106-  
16 129) a growing demand for pharmacists by requiring  
17 the Secretary of Health and Human Services to con-  
18 duct a study to determine whether there is a short-  
19 age of pharmacists in the United States and, if so,  
20 to what extent.

21 (4) As a result of Congress' concern about how  
22 a shortage of pharmacists would impact the public  
23 health, the Secretary of Health and Human Services  
24 published a report entitled "The Pharmacist Work-  
25 force: A Study in Supply and Demand for Phar-  
26 macists" in December of 2000.

1           (5) “The Pharmacist Workforce: A Study in  
 2       Supply and Demand for Pharmacists” found that  
 3       “While the overall supply of pharmacists has in-  
 4       creased in the past decade, there has been an un-  
 5       precedented demand for pharmacists and for phar-  
 6       maceutical care services, which has not been met by  
 7       the currently available supply” and that the “evi-  
 8       dence clearly indicates the emergence of a shortage  
 9       of pharmacists over the past two years”.

10          (6) The same study also found that “The fac-  
 11       tors causing the current shortage are of a nature not  
 12       likely to abate in the near future without funda-  
 13       mental changes in pharmacy practice and edu-  
 14       cation.” The study projects that the number of pre-  
 15       scriptions filled by community pharmacists will in-  
 16       crease by 20 percent by 2004. In contrast, the num-  
 17       ber of community pharmacists is expected to in-  
 18       crease by only 6 percent by 2005.

19          (7) Regarding access to pharmacy services in  
 20       rural areas, the study found that “Remoteness, iso-  
 21       lation from other professionals, lower economic re-  
 22       turns, reduced opportunities for advancement, and  
 23       other rural practice characteristics remain obstacles”  
 24       to attracting pharmacists.

1           (8) The demand for pharmacists will increase  
2           as prescription drug use continues to grow.

3 **SEC. 3. HEALTH PROFESSIONS PROGRAMS RELATED TO**  
4 **THE PRACTICE OF PHARMACY.**

5           Part E of title VII of the Public Health Service Act  
6 (42 U.S.C. 294n et seq.) is amended by adding at the end  
7 the following:

8 **“Subpart 3—Pharmacy Workforce Development**

9 **“SEC. 781. LOAN REPAYMENT PROGRAM FOR PHARMACISTS**  
10 **SERVING IN CRITICAL SHORTAGE FACILI-**  
11 **TIES.**

12           “(a) IN GENERAL.—In the case of any individual—

13               “(1) who has received a baccalaureate degree in  
14           pharmacy or a Doctor of Pharmacy degree from an  
15           accredited program;

16               “(2) who obtained an educational loan for phar-  
17           macy education costs; and

18               “(3) who is licensed without restrictions in the  
19           State in which the designated health care facility is  
20           located;

21 the Secretary may enter into an agreement with such indi-  
22 vidual who agrees to serve as a full-time pharmacist for  
23 a period of not less than 2 years at a designated health  
24 care facility, to make payments in accordance with sub-  
25 section (b), for and on behalf of that individual, on the

1 principal of and interest on any loan of that individual  
 2 described in paragraph (2) which is outstanding on the  
 3 date the individual begins such service.

4 “(b) MANNER OF PAYMENTS.—

5 “(1) IN GENERAL.—The payments described in  
 6 subsection (a) may consist of payment, in accord-  
 7 ance with paragraph (2), on behalf of the individual  
 8 of the principal, interest, and related expenses on  
 9 government and commercial loans received by the in-  
 10 dividual regarding the undergraduate or graduate  
 11 education of the individual (or both), which loans  
 12 were made for—

13 “(A) tuition expenses;

14 “(B) all other reasonable educational ex-  
 15 penses, including fees, books, and laboratory ex-  
 16 penses, incurred by the individual; or

17 “(C) reasonable living expenses as deter-  
 18 mined by the Secretary.

19 “(2) PAYMENTS FOR YEARS SERVED.—

20 “(A) IN GENERAL.—For each year of obli-  
 21 gated service that an individual contracts to  
 22 serve under subsection (a) the Secretary may  
 23 pay up to \$35,000 on behalf of the individual  
 24 for loans described in paragraph (1). In making  
 25 a determination of the amount to pay for a year

1 of such service by an individual, the Secretary  
 2 shall consider the extent to which each such  
 3 determination—

4 “(i) affects the ability of the Secretary  
 5 to maximize the number of agreements  
 6 that may be provided under this section  
 7 from the amounts appropriated for such  
 8 agreements;

9 “(ii) provides an incentive to serve in  
 10 areas with the greatest shortages of phar-  
 11 macists; and

12 “(iii) provides an incentive with re-  
 13 spect to the pharmacist involved remaining  
 14 in the area and continuing to provide phar-  
 15 macy services after the completion of the  
 16 period of obligated service under agree-  
 17 ment.

18 “(B) REPAYMENT SCHEDULE.—Any ar-  
 19 rangement made by the Secretary for the mak-  
 20 ing of loan repayments in accordance with this  
 21 subsection shall provide that any repayments  
 22 for a year of obligated service shall be made not  
 23 later than the end of the fiscal year in which  
 24 the individual completes such year of service.

1           “(3) TAX LIABILITY.—For the purpose of pro-  
 2           viding reimbursements for tax liability resulting  
 3           from payments under paragraph (2) on behalf of an  
 4           individual—

5                   “(A) the Secretary shall, in addition to  
 6                   such payments, make payments to the indi-  
 7                   vidual in an amount equal to 39 percent of the  
 8                   total amount of loan repayments made for the  
 9                   taxable year involved; and

10                   “(B) may make such additional payments  
 11                   as the Secretary determines to be appropriate  
 12                   with respect to such purpose.

13           “(4) PAYMENT SCHEDULE.—The Secretary  
 14           may enter into an agreement with the holder of any  
 15           loan for which payments are made under this section  
 16           to establish a schedule for the making of such pay-  
 17           ments.

18           “(c) PREFERENCES.—In entering into agreements  
 19           under subsection (a), the Secretary shall give preference  
 20           to qualified applicants with the greatest financial need.

21           “(d) REPORTS.—

22                   “(1) ANNUAL REPORT.—Not later than 18  
 23                   months after the date of enactment of the Pharmacy  
 24                   Education Aid Act, and annually thereafter, the Sec-  
 25                   retary shall prepare and submit to Congress a report

describing the program carried out under this section, including statements regarding—

“(A) the number of applicants and contract recipients;

“(B) the amount of loan repayments made;

“(C) which educational institution the recipients attended;

“(D) the number and practice locations of the loan repayment recipients at health care facilities with a critical shortage of pharmacists;

“(E) the default rate and actions required;

“(F) the amount of outstanding default funds of the loan repayment program;

“(G) to the extent that it can be determined, the reason for the default;

“(H) the demographics of the individuals participating in the loan repayment program; and

“(I) an evaluation of the overall costs and benefits of the program.

“(2) 5-YEAR REPORT.—Not later than 5 years after the date of enactment of the Pharmacy Education Aid Act, the Secretary shall prepare and submit to Congress a report on how the program carried out under this section interacts with other Fed-



1       eral loan repayment programs for pharmacists and  
2       determining the relative effectiveness of such pro-  
3       grams in increasing pharmacists practicing in under-  
4       served areas.

5       “(e) APPLICATION OF CERTAIN PROVISIONS.—

6               “(1) IN GENERAL.—The provisions of section  
7       338C, 338G, and 338I shall apply to the program  
8       established under this section in the same manner  
9       and to the same extent as such provisions apply to  
10      the National Health Service Corps Loan Repayment  
11      Program under subpart III of part D of title III, in-  
12      cluding the applicability of provisions regarding re-  
13      imbursements for increased tax liability and bank-  
14      ruptcy.

15             “(2) BREACH OF AGREEMENT.—An individual  
16      who enters into an agreement under subsection (a)  
17      shall be liable to the Federal Government for the  
18      amount of the award under such agreement (includ-  
19      ing amounts provided for expenses related to such  
20      attendance), and for interest on such amount at the  
21      maximum legal prevailing rate, if the individual fails  
22      to provide health services in accordance with the  
23      program under this section for the period of time  
24      applicable under the program.

1           “(3) WAIVER OR SUSPENSION OF LIABILITY.—

2           In the case of an individual or health facility making  
3           an agreement for purposes of subsection (a), the  
4           Secretary shall provide for the waiver or suspension  
5           of liability under paragraph (2) if compliance by the  
6           individual or the health facility, as the case may be,  
7           with the agreement involved is impossible, or would  
8           involve extreme hardship to the individual or facility,  
9           and if enforcement of the agreements with respect to  
10          the individual or facility would be unconscionable.

11          “(4) DATE CERTAIN FOR RECOVERY.—Subject  
12          to paragraph (3), any amount that the Federal Gov-  
13          ernment is entitled to recover under paragraph (2)  
14          shall be paid to the United States not later than the  
15          expiration of the 3-year period beginning on the date  
16          the United States becomes so entitled.

17          “(5) AVAILABILITY.—Amounts recovered under  
18          paragraph (2) with respect to a program under this  
19          section shall be available for the purposes of such  
20          program, and shall remain available for such pur-  
21          poses until expended.

22          “(f) DEFINITION.—In this section, the term ‘health  
23          care facility’ means a facility with a critical shortage of  
24          pharmacists as determined by the Secretary.

1       “(g) AUTHORIZATION OF APPROPRIATIONS.—For the  
 2 purpose of payments under agreements entered into under  
 3 subsection (a), there are authorized to be appropriated  
 4 such sums as may be necessary for each of fiscal years  
 5 2004 through 2008.

6       **“SEC. 782. PHARMACY FACULTY LOAN REPAYMENT PRO-**  
 7                               **GRAM.**

8       “(a) ESTABLISHMENT OF PROGRAM.—The Secretary  
 9 shall establish a program under which the Secretary will  
 10 enter into contracts with individuals described in sub-  
 11 section (b) and such individuals will agree to serve as fac-  
 12 ulty members of schools of pharmacy in consideration of  
 13 the Federal Government agreeing to pay, for each year  
 14 of such service, not more than \$35,000 of the principal  
 15 and interest of the educational loans of such individuals.

16       “(b) ELIGIBLE INDIVIDUALS.—An individual is de-  
 17 scribed in this subsection if such individual—

18               “(1) has a baccalaureate degree in pharmacy or  
 19 a Doctor of Pharmacy degree from an accredited  
 20 program; or

21               “(2) is enrolled as a full-time student—

22                       “(A) in an accredited pharmacy program;  
 23 and

24                       “(B) in the final year of a course of a  
 25 study or program, offered by such institution

1           and approved by the Secretary, leading to a  
 2           baccalaureate degree in pharmacy or a Doctor  
 3           of Pharmacy degree from such a school.

4           “(c) REQUIREMENTS REGARDING FACULTY POSI-  
 5 TIONS.—The Secretary may not enter into a contract  
 6 under subsection (a) unless—

7           “(1) the individual involved has entered into a  
 8           contract with a school of pharmacy to serve as a  
 9           member of the faculty of the school for not less than  
 10          2 years; and

11          “(2) the contract referred to in paragraph (1)  
 12          provides that—

13               “(A) the school will, for each year for  
 14               which the individual will serve as a member of  
 15               the faculty under contract with the school,  
 16               make payments of the principal and interest  
 17               due on the educational loans of the individual  
 18               for such year in an amount equal to the amount  
 19               of such payments made by the Secretary for the  
 20               year;

21               “(B) the payments made by the school  
 22               pursuant to subparagraph (A) on behalf of the  
 23               individual will be in addition to the compensa-  
 24               tion that the individual would otherwise receive  
 25               for serving as a member of such faculty; and

1           “(C) the school, in making a determination  
 2           of the amount of compensation to be provided  
 3           by the school to the individual for serving as a  
 4           member of the faculty, will make the determina-  
 5           tion without regard to the amount of payments  
 6           made (or to be made) to the individual by the  
 7           Federal Government under subsection (a).

8           “(d) APPLICABILITY OF CERTAIN PROVISIONS.—The  
 9           provisions of sections 338C, 338G, and 338I shall apply  
 10          to the program established in subsection (a) to the same  
 11          extent and in the same manner as such provisions apply  
 12          to the National Health Service Corps Loan Repayment  
 13          Program established in subpart III of part D of title III,  
 14          including the applicability of provisions regarding reim-  
 15          bursements for increased tax liability and regarding bank-  
 16          ruptcy.

17          “(e) AUTHORIZATION OF APPROPRIATIONS.—For the  
 18          purpose of carrying out this section, there are authorized  
 19          to be appropriated such sums as may be necessary for  
 20          each of fiscal years 2004 through 2008.

21       **“SEC. 783. DEFINITIONS.**

22          “In this subpart:

23               “(1) SCHOOL OF PHARMACY.—The term ‘school  
 24               of pharmacy’ means a college or school of pharmacy  
 25               (as defined in section 799B) that, in providing clin-

1 ical experience for students, requires that the stu-  
 2 dents serve in a clinical rotation in which pharmacist  
 3 services (as defined in section 331(a)(3)(E)) are pro-  
 4 vided at or for—

5 “(A) a medical facility that serves a sub-  
 6 stantial number of individuals who reside in or  
 7 are members of a medically underserved com-  
 8 munity (as so defined);

9 “(B) an entity described in any of sub-  
 10 paragraphs (A) through (L) of section  
 11 340B(a)(4) (relating to the definition of covered  
 12 entity);

13 “(C) a health care facility of the Depart-  
 14 ment of Veterans Affairs or of any of the  
 15 Armed Forces of the United States;

16 “(D) a health care facility of the Bureau  
 17 of Prisons;

18 “(E) a health care facility operated by, or  
 19 with funds received from, the Indian Health  
 20 Service; or

21 “(F) a disproportionate share hospital  
 22 under section 1923 of the Social Security Act.

23 “(2) PHARMACIST SERVICES.—The term ‘phar-  
 24 macist services’ includes drug therapy management  
 25 services furnished by a pharmacist, individually or

1       on behalf of a pharmacy provider, and such services  
2       and supplies furnished incident to the pharmacist's  
3       drug therapy management services, that the phar-  
4       macist is legally authorized to perform (in the State  
5       in which the individual performs such services) in  
6       accordance with State law (or the State regulatory  
7       mechanism provided for by State law).”.

Passed the Senate November 25, 2003.

Attest:

*Secretary.*

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To amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy.