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SENATE

{ REPORT
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PHARMACY EDUCATION AID ACT OF 2003

NOVEMBER 6, 2003.—Ordered to be printed

Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, submitted the following

R E P O R T

[To accompany S. 648]

The Committee on Health, Education, Labor, and Pensions, to which was referred the bill (S. 648) to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy and having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

CONTENTS

	Page
I. Purpose and need for legislation	1
II. Summary of the bill	2
III. History of legislation and votes in committee	2
IV. Explanation of bill and committee views	3
V. Cost estimate	3
VI. Regulatory impact statement	6
VII. Application of law to the legislative branch	6
VIII. Section-by-section analysis	6
IX. Changes in existing law	7

I. PURPOSE AND NEED FOR LEGISLATION

Pharmacists are an important link in our Nation’s health care system and a shortage of pharmacists threatens the ability of patients to pharmacies to provide important prescription related services.

In the landmark report entitled “To Err is Human: Building a Safer Health System”, the Institute of Medicine reported that medication errors can be partially attributed to factors that are indicative of a shortage of pharmacists (such as too many customers, numerous distractions, and staff shortages).

Congress acknowledged in the Healthcare Research and Quality Act of 1999 (Public Law 106–129) the potential need for pharmacists by requiring the Security of Health and Human Services to conduct a study to determine whether there is a shortage of pharmacists in the United States, and, if so, to what extent.

As a result, the Secretary of Health and Human Services published a report entitled “The Pharmacist Workforce: A Study in Supply and Demand for Pharmacists” in December 2000 which found, “while the overall supply of pharmacists has increased in the past decade, there has been an unprecedented demand for pharmacists and for pharmaceutical care services, which has not been met by the currently available supply” and that the “evidence clearly indicates the emergence of a shortage of pharmacists over the past 2 years.”

The same study also found, “the factors causing the current shortage are of a nature not likely to abate in the near future without fundamental changes in pharmacy practice and education.” The study projects that the number of prescriptions filled by community pharmacists will increase by 20 percent by 2004.

Regarding access to pharmacy services in rural areas, the study found, “remoteness, isolation from other professionals, lower economic returns, reduced opportunities for advancement and other rural practice characteristics remain obstacles” to attracting pharmacists.

II. SUMMARY OF THE BILL

The Pharmacy Education Aid Act of 2003 authorizes two new student-loan repayment programs for pharmacists. The first would repay the student loans of pharmacists who agree to practice for at least 2 years in facilities that are facing critical shortages of pharmacists, as defined by the Secretary of Health and Human Services. The second would repay the loans of students who agree to serve for at least 2 years as faculty members at accredited schools of pharmacy.

III. HISTORY OF LEGISLATION AND VOTES IN COMMITTEE

On December 11, 2001, Senator Reed, for himself and Senators Enzi, Johnson, Chafee, Graham of Florida, Collins, Landrieu, Hutchinson, Inouye, Cochran, and Wellstone, introduced S. 1806, the Pharmacy Education Aid Act of 2001. Senators Mikulski and Torricelli later joined as co-sponsors of the act.

On September 30, 2002, the committee held an executive session to consider S. 1806. After agreeing to an amendment in the nature of a substitute, the committee approved S. 1806 by unanimous voice vote.

On October 3, 2002, the Senate approved S. 1806 by unanimous voice vote. On October 7, 2002, the House received S. 1806 and referred the act to the Committee on Energy and Commerce.

There was no further action on S. 1806 in the 107th Congress.

On March 18, 2003, Senator Reed, for himself and Senators Enzi, Johnson, Warner, Landrieu, Collins, Inouye, and Roberts, introduced S. 648, the Pharmacy Education Aid Act of 2003. Senators Cochran, Lautenberg, Mikulski, and Stabenow later joined as co-sponsors of the act.

On June 11, 2003, the committee held an executive session to consider S. 648. After agreeing to an amendment in the nature of a substitute offered by Senator Enzi for himself and Senator Reed, the committee approved S. 648 by unanimous voice vote.

A. AMENDMENT ADOPTED

The Enzi-Reed substitute amendment approved by the committee requires schools of pharmacy conform to current law and match federal contributions on a dollar-for-dollar basis in the faculty loan repayment program. The substitute amendment also removed a provision establishing a new information technology grant program for schools of pharmacy.

IV. EXPLANATION OF BILL AND COMMITTEE VIEWS

The committee recognizes the important role that pharmacists play in the American health care system. In particular, the committee appreciates the role that pharmacists play in rural areas, where the pharmacist can be one of the few local health professionals with a permanent presence in the community.

The demand for pharmacists will increase as prescription drug use continues to grow. To help meet this demand, the Pharmacy Education Aid Act of 2003 would establish programs that help reduce the financial barriers faced by pharmacists who would seek to practice in shortage areas or to serve as pharmacy school faculty, two of the great demonstrated needs in the pharmacist workforce.

The committee would be concerned if schools of pharmacy were to use funds made available through this act for repaying the educational loans of a faculty member to replace funds that the school otherwise would have paid in salary or other benefits to such faculty member. The committee intends for the faculty loan repayment program to assist pharmacists who take faculty positions in repaying their educational loans, since faculty positions generally pay less than full-time practicing positions in most areas. To that end, the committee expects the Secretary to ensure that faculty loan repayments made by a school of pharmacy are in addition to the compensation that the individual would normally receive for serving as a member of the faculty.

The committee expects that the Secretary will develop regulations to implement this act, in particular the definition of a “facility with a critical shortage of pharmacists”, in consultation with organizations representing residents of medically underserved areas, facilities and pharmacists that serve such residents, and schools of pharmacy.

V. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 31, 2003.

Hon. JUDD GREGG,
*Chairman, Committee on Health, Education, Labor, and Pensions,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 648, the Pharmacy Education Aid Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Alexis Ahlstrom.

Sincerely,

ROBERT A. SUNSHINE
(for Douglas Holtz-Eakin, Director).

Enclosure.

S. 648—Pharmacy Education Aid Act of 2003

Summary: S. 648 would establish two pharmacy education programs within the Health Services and Research Administration (HRSA). The bill would authorize the agency to pay principal and interest on education loans owed by pharmacists possessing bachelor or doctorate degrees who agree to work for at least two years in an area where there is a shortage of pharmacists. S. 648 also would provide for loan repayments for students and graduates who became members of the faculty of a pharmacy school for a minimum of two years. In each case, payments for an individual could not exceed \$35,000 per year of service. The bill would authorize the appropriation of such sums as necessary for these activities from 2004 through 2008.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 648 would cost \$2 million in 2004 and \$51 million over the 2004–2008 period.

By authorizing assistance to certain pharmacists, S. 648 would effectively extend provisions of section 224 of the Public Health Service act to those pharmacists who choose to work in health centers that receive funding under section 330 of that act. That section authorizes settlements and awards for tort claims to be paid out of the Treasury’s Judgment Fund. Those payments are considered direct spending, regardless of whether the health program involved is an entitlement program or subject to appropriations. CBO estimates that additional payments under S. 648 would be less than \$500,000 over the 2004–2008 period.

S. 648 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs that public schools of pharmacy incur to assist faculty members with loan payments would be voluntary.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 648 is shown in the following table. The costs of this legislation fall within budget functions 550 (health) and 800 (general government).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATIONS ¹					
Estimated Authorization Level	3	8	13	18	22
Estimated Outlays	2	5	11	15	18

¹Enacting S. 648 also would increase direct spending, but the estimated cost would be less than \$500,000 over the 2004–2008 period.

Basis of estimate: For this estimate, CBO assumes that S. 648 will be enacted by the fall of 2003 and that the necessary amounts to implement the bill will be appropriated each year. CBO estimates that implementing S. 648 would require new discretionary spending of about \$51 million over the next five years. Enacting

the legislation also could increase direct spending, but any such effects would not be significant.

Spending subject to appropriation

S. 648 would establish a loan repayment program for individuals with a pharmacy degree who agree to work for a minimum of two years in areas with a critical shortage of pharmacists. The program would reimburse up to \$35,000 per year for loans covering tuition and living expenses, and would cover the tax liability associated with those reimbursements.

Based on information from HRSA, CBO estimates that about 50 graduates would participate in 2004, rising to about 250 graduates each year by 2008. CBO estimates that annual loan repayments, including payments for tax liability, would average about \$30,000 per participant in 2004, and that participants would receive this aid for two to three years.

The bill would allow HRSA to recover payments to individuals who fail to complete two years of service in an area with a shortage of pharmacists. CBO estimates that the percentage of pharmacists who fail to complete two years of service would be between 5 percent and 15 percent, which is similar to the experience of the National Health Service Corps program.

CBO estimates that the cost of implementing this loan repayment program would be less than \$2 million in 2004 and \$49 million over the 2004–2008 period, assuming the appropriation of the necessary amounts.

The bill also would establish a loan repayment program for pharmacy school graduates and near-graduates who serve on the faculty of a pharmacy school. Under the bill, HRSA would enter into contracts with students or graduates who have agreed to work for a minimum of two years at a school of pharmacy. HRSA would reimburse participants up to \$35,000 per year for their outstanding loans. The school hiring the participant would be required to match federal payments, and would not be able to reduce the faculty member's salary to account for the loan repayments.

Based on information from HRSA, CBO expects that there would not be much participation by pharmacy schools in the faculty loan repayment program because of the matching requirement. CBO estimates that the number of participants in the loan repayment program would grow from 5 in 2004 to 30 in 2008. We assume that participants would receive loan reimbursement for two years on average, in amounts averaging between \$22,000 and \$25,000 per year over this period. CBO estimates that implementing this program would cost less than \$500,000 in 2004 and \$3 million over the 2004–2008 period, assuming the appropriation of the necessary amounts.

Direct spending

Under current law, settlements and tort claims arising from the actions of licensed health care providers in federally funded health centers are paid from the Treasury's Judgment Fund. The bill would expand that coverage to include tort claims arising from the actions of licensed pharmacists participating in the new loan repayment program. Based on past experience with spending from the Judgment Fund for providers covered under section 224 and the

small number of pharmacists who would likely be affected by this provision, CBO estimates that any payments from the Fund would be less than \$500,000 during the 2004–2008 period.

Intergovernmental and private-sector impact: S. 648 contains no intergovernmental or private-sector mandates as defined in UMRA. Any costs that public schools of pharmacy incur to assist faculty members with loan payments would be voluntary.

Estimate prepared by: Federal Costs: Alexis Ahlstrom; Impact on State, Local, and Tribal Governments: Leo Lex; and Impact on the Private Sector: Daniel Wilmoth.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

VI. REGULATORY IMPACT STATEMENT

The committee has determined that there will be minimal increases in the regulatory burden imposed by this bill.

VII. APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

The Committee has determined that there is no legislative impact.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This bill may be referred to as the “Pharmacy Education Aid Act of 2003”.

Section 2. Findings

The findings describe the nature of the pharmacist shortage, particularly as it impacts rural areas, and the need both to educate a new generation of pharmacists and to encourage new pharmacists to practice in underserved areas and facilities.

Section 3. Health professions programs related to the practice of pharmacy

The act amends Title VII of the Public Health Service Act to create two student-loan repayment programs for pharmacists.

Loan repayment program for pharmacists serving in critical shortage facilities

The act authorizes the Secretary of Health and Human Services to repay the student loans of licensed pharmacists who agree to serve for at least 2 years at a facility designated by the Secretary as having a critical shortage of pharmacists.

For each year of obligated service for which a pharmacist contracts to serve, the Secretary may pay up to \$35,000 of the pharmacist’s student loans.

Similar to the National Health Service Corps student loan repayment program, the act authorizes the Secretary to reimburse the pharmacist for tax liability resulting from the student loan payments. To do so, the Secretary shall make payments to the pharmacist in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved.

In entering into student loan repayment agreements under this section, the Secretary shall give preference to qualified applicants with the greatest financial need.

The act requires the Secretary to report to Congress annually on the program. The Secretary must also report to Congress within 5 years after enactment on how the program carried out under this section interacts with other Federal loan repayment programs for pharmacists and the relative effectiveness of such programs in increasing pharmacists practicing in underserved areas.

A pharmacist who breaches his or her agreement under this section shall be liable to the Federal Government for the amount of the award and for interest on such amount.

The act authorizes such sums as may be necessary for fiscal years 2003 through 2008.

Pharmacy faculty loan repayment program

The act authorizes the Secretary of Health and Human Services to repay the student loans of pharmacists or pharmacy students who agree to serve for at least 2 years as a faculty member of a qualified school of pharmacy. To be qualified, a school of pharmacy must provide clinical experience that includes service provided for, or a facility that serves, medically underserved citizens.

For each year of service, the Secretary may not pay more than \$35,000 of the principal and interest of the educational loans of such individuals.

Eligible individuals include those who have a baccalaureate degree in pharmacy or a Doctor of Pharmacy degree from an accredited program, or are enrolled as a full-time student in an accredited pharmacy program and are in the final year of a course of study leading to a baccalaureate degree in pharmacy or a Doctor of Pharmacy degree.

The Secretary may not enter into a loan-repayment contract unless the individual involved has entered into a contract with a school of pharmacy to serve as a member of the faculty of the school for not less than 2 years; and the contract provides that the school will, for each year for which the individual will serve as a member of the faculty under contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year.

The payments made by the school must be in addition to the compensation that the individual would otherwise receive for serving as a member of the faculty.

The act authorizes such sums as may be necessary to carry out the program in fiscal years 2004 through 2008.

IX. CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

* * * * *

**TITLE VII—HEALTH PROFESSIONS
EDUCATION**

PART A—STUDENT LOANS

**Subpart I—Insured Health Education Assistance
Loans to Graduate Students**

SEC. 701. STATEMENT OF PURPOSE.

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**PART E—HEALTH PROFESSIONS AND PUBLIC
HEALTH WORKFORCE**

**Subpart 1—Health Professions Workforce
Information and Analysis**

**SEC. 761. HEALTH PROFESSIONS WORKFORCE INFORMATION AND
ANALYSIS.**

(a) PURPOSE.—* * *

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“Subpart 3—Pharmacy Workforce Development

***“SEC. 781. LOAN REPAYMENT PROGRAM FOR PHARMACISTS SERVING
IN CRITICAL SHORTAGE FACILITIES.***

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

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

***(2) who obtained an educational loan for pharmacy education
costs; and***

***(3) who is licensed without restrictions in the State in which
the designated health care facility is located;***

***the Secretary may enter into an agreement with such individual
who agrees to serve as a full-time pharmacist for a period of not less
than 2 years at a designated health care facility, to make payments
in accordance with subsection (b), for and on behalf of that indi-
vidual, on the principal of and interest on any loan of that indi-
vidual described in paragraph (2) which is outstanding on the date
the individual begins such service.***

(b) MANNER OF PAYMENTS.—

***(1) IN GENERAL.—The payments described in subsection (a)
may consist of payment, in accordance with paragraph (2), on
behalf of the individual of the principal, interest, and related
expenses on government and commercial loans received by the
individual regarding the undergraduate or graduate education
of the individual (or both), which loans were made for—***

(A) tuition expenses;

(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; or

(C) reasonable living expenses as determined by the Secretary.

(2) PAYMENTS FOR YEARS SERVED.—

(A) IN GENERAL.—For each year of obligated service that an individual contracts to serve under subsection (a) the Secretary may pay up to \$35,000 on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

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

(ii) provides an incentive to serve in areas with the greatest shortages of pharmacists; and

(iii) provides an incentive with respect to the pharmacist involved remaining in the area and continuing to provide pharmacy services after the completion of the period of obligated service under agreement.

(B) REPAYMENT SCHEDULE.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made not later than the end of the fiscal year in which the individual completes such year of service.

(3) TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual—

(A) the Secretary shall, in addition to such payments, make payments to the individual in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved; and

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

(4) PAYMENT SCHEDULE.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under this section to establish a schedule for the making of such payments.

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

(d) REPORTS.—

(1) ANNUAL REPORT.—Not later than 18 months after the date of enactment of the Pharmacy Education Aid Act, and annually thereafter, the Secretary 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 Federal loan repayment programs for pharmacists and determining the relative effectiveness of such programs in increasing pharmacists practicing in underserved areas.

(e) APPLICATION OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—The provisions of section 338C, 338G, and 338I shall apply to the program established under this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program under subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and bankruptcy.

(2) BREACH OF AGREEMENT.—An individual who enters into an agreement under subsection (a) shall be liable to the Federal Government for the amount of the award under such agreement (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this section for the period of time applicable under the program.

(3) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual or health facility making an agreement for purposes of subsection (a), the Secretary shall provide for the waiver or suspension of liability under paragraph (2) if compliance by the individual or the health facility, as the case may be, with the agreement involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

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

(5) AVAILABILITY.—Amounts recovered under paragraph (2) with respect to a program under this section shall be available for the purposes of such program, and shall remain available for such purposes until expended.

(f) *DEFINITION.*—In this section, the term “health care facility” means a facility with a critical shortage of pharmacists as determined by the Secretary.

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

SEC. 782. PHARMACY FACULTY LOAN REPAYMENT PROGRAM.

(a) *ESTABLISHMENT OF PROGRAM.*—The Secretary shall establish a program under which the Secretary will enter into contracts with individuals described in subsection (b) and such individuals will agree to serve as faculty members of schools of pharmacy in consideration of the Federal Government agreeing to pay, for each year of such service, not more than \$35,000 of the principal and interest of the educational loans of such individuals.

(b) *ELIGIBLE INDIVIDUALS.*—An individual is described in this subsection if such individual—

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

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

(A) in an accredited pharmacy program; and

(B) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a baccalaureate degree in pharmacy or a Doctor of Pharmacy degree from such a school.

(c) *REQUIREMENTS REGARDING FACULTY POSITIONS.*—The Secretary may not enter into a contract under subsection (a) unless—

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

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

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

(B) the payments made by the school pursuant to subparagraph (A) on behalf of the individual will be in addition to the compensation that the individual would otherwise receive for serving as a member of such faculty; and

(C) the school, in making a determination of the amount of compensation to be provided by the school to the individual for serving as a member of the faculty, will make the determination without regard to the amount of payments made (or to be made) to the individual by the Federal Government under subsection (a).

(d) *APPLICABILITY OF CERTAIN PROVISIONS.*—The provisions of sections 338C, 338G, and 338I shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and regarding bankruptcy.

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

SEC. 783. DEFINITIONS.

In this subpart:

(1) *SCHOOL OF PHARMACY.*—the term “school of pharmacy” means a college or school of pharmacy (as defined in section 799B) that, in providing clinical experience for students, requires that the students serve in a clinical rotation in which pharmacist services (as defined in section 331(a)(3)(E)) are provided at or for—

(A) a medical facility that serves a substantial number of individuals who reside in or are members of a medically underserved community (as so defined);

(B) an entity described in any of subparagraphs (A) through (L) of section 340B(a)(4) (relating to the definition of covered entity);

(C) a health care facility of the Department of Veterans Affairs or of any of the Armed Forces of the United States;

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

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

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

(2) *PHARMACIST SERVICES.*—The term “pharmacist services” includes drug therapy management services furnished by a pharmacist, individually or on behalf of a pharmacy provider, and such services and supplies furnished incident to the pharmacist’s drug therapy management services, that the pharmacist is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided for by State law).

* * * * *

