

Public Law 97-251
97th Congress

An Act

To amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration Health Professional Scholarship Program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes.

Sept. 8, 1982
[H.R. 6350]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans'
Administration
Health-Care
Programs
Improvement
and Extension
Act of 1982.
38 USC 101 note.

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

PAY AND WORK SCHEDULES FOR NURSES AND CERTAIN OTHER HEALTH-CARE PERSONNEL

SEC. 2. (a) Paragraph (10) of section 4107(e) is amended to read as follows:

38 USC 4107.

"(10)(A) Notwithstanding any other provision of law but subject to subparagraphs (B) and (C) of this paragraph, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses, the Administrator—

"(i) may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection; and

"(ii) may extend the period for which additional pay authorized under paragraph (3) of this subsection is paid to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday.

"(B) An increase under subparagraph (A)(i) of this paragraph in rates of additional pay (i) may be made at any specific Veterans' Administration health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (based upon a reasonably representative sampling of such non-Federal facilities), and (ii) may be made on a nationwide, local, or other geographic basis if the Administrator finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably

representative sampling of non-Federal health-care facilities in the geographic area involved).

“(C)(i) An extension under subparagraph (A)(ii) of this paragraph of the period for which additional pay may be paid under paragraph (3) of this subsection may be made on a nationwide, local, or other geographic basis. Any such extension shall be based on a determination by the Administrator that such extension is justified on the basis of a review of the need for such extension in such geographic area.

“(ii) The rates of additional pay payable pursuant to an extension under such subparagraph shall be established as a percentage of the applicable hourly rates of basic pay. Such rates of additional pay may not exceed the lesser of (I) the percentage of such hourly rates of basic pay that the Administrator determines is necessary to be paid within the geographic area involved in order to obtain or retain the services of nurses, and (II) the percentage provided for in paragraph (3) of this subsection of the applicable hourly rate of basic pay.”

(b) Section 4107(f) is amended by striking out “paragraphs (2) through (8) of”.

(c) Section 4107 is amended by adding at the end the following new subsection:

“(h)(1) Notwithstanding any other provision of law but subject to paragraph (2) of this subsection, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses at any Veterans’ Administration health-care facility, the Administrator may provide, in the case of nurses appointed under this subchapter and employed at such facility, that such nurses who work two regularly scheduled twelve-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full forty-hour basic workweek.

“(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) of this subsection to have worked a full forty-hour basic workweek shall be subject to subparagraphs (B) and (C) of this paragraph.

“(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled twelve-hour tour of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be derived by dividing the nurse’s annual rate of basic pay by one thousand two hundred and forty-eight.

Overtime pay.

“(C)(i) Such a nurse who performs a period of service in excess of such nurse’s regularly scheduled two twelve-hour tours of duty is entitled to overtime pay under subsection (e)(5) of this section, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a Saturday or Sunday or in excess of twenty-four hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

“(ii)(I) Except as provided in subdivision (II) of this division, a nurse to whom this paragraph is applicable is not entitled to additional pay under subsection (e) of this section, or other applicable law, for any period included in a regularly scheduled twelve-hour tour of duty.

“(II) If the Administrator determines it to be further necessary in order to obtain or retain the services of nurses at a particular facility, a nurse to whom this paragraph is applicable who performs service in excess of such nurse’s regularly scheduled two twelve-hour tours of duty may be paid overtime pay under subsection (e)(5) of this section, or other applicable law, for all or part of the hours of officially ordered or approved service performed by such nurse in excess of forty hours during an administrative workweek.

“(3) A nurse described in paragraph (2)(A) of this subsection who is absent on approved sick leave or annual leave during a regularly scheduled twelve-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

“(4) The Administrator shall prescribe regulations for the implementation of this subsection.”

(d)(1) Not later than one hundred and twenty days after the date of the enactment of this Act, the Administrator of Veterans’ Affairs shall publish in the Federal Register, for public review and comment for a period of not to exceed sixty days, proposed regulations for the implementation of subsection (e)(10) of section 4107 of title 38, United States Code (as amended by subsection (a) of this section), subsection (g) of such section, and subsection (h) of such section (as added by subsection (c) of this section).

(2) Not later than three hundred days after the date of the enactment of this Act, the Administrator of Veterans’ Affairs shall publish in the Federal Register final regulations for the implementation of such subsections.

Regulations.

Proposed regulations; publication in Federal Register. 38 USC 4107 note.

Final regulations; publication in Federal Register.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 3. (a) Section 4142 is amended—

(1) in subsection (a)—

(A) by striking out “full-time” in clause (1); and

(B) by adding below clause (4) the following new sentences:

“To be accepted as a participant in the Scholarship Program, an individual must be accepted for enrollment or be enrolled (as described in clause (1) of this subsection) as a full-time student, except that an individual who is a Veterans’ Administration employee described in subsection (g)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of this subsection) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a ‘part-time student’.)”;

(2) in subsection (e)(1)(A)(i), by inserting “(or in a case in which an extension is granted under subsection (g)(3) of this section, the number of school years provided for as a result of such extension)” after “years”;

(3) in subsection (e)(1)(B)—

(A) by inserting “(to be reduced, in the case of a participant who is a part-time student, in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant)” in division (iv)(I) after “Scholarship Program”;

38 USC 4142.

Participant eligibility requirements.

(B) by striking out “years; and” in division (iv)(II) and inserting in lieu thereof “years (or, in the case of a participant who is a part-time student, one calendar year);”;

(C) by inserting “and” at the end of division (v); and

(D) by adding at the end the following new division:

“(vi) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans’ Administration employee permanently assigned to a Veterans’ Administration health-care facility;”;

(3) in subsection (f)—

(A) by inserting a comma and “except that a stipend may not be paid to a participant who is a full-time employee of the Veterans’ Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (g)(2) of this section” before the period at the end of paragraph (1)(B); and

(B) by inserting “maximum” after “The” in paragraph (3);

(4) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively;

(5) by inserting after subsection (f) the following new subsection (g):

“(g)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans’ Administration employee permanently assigned to a Veterans’ Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of this section and on the date on which such individual becomes a participant in the Scholarship Program.

“(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

“(A) the maximum amount of the stipend payable to such participant under subsection (f)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

“(B) a stipend may not be paid to such participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

“(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of six school years if the Administrator determines that such an extension would be in the best interest of the United States.”; and

(6) in subsection (h) (as redesignated by clause (4))—

(A) by inserting “by virtue of their participation in such program (1)” after “Program shall not”;

(B) by striking out “and shall not” and inserting in lieu thereof a comma and “or (2)”;

(C) by striking out “employment” and inserting in lieu thereof “personnel”; and

(D) by striking out “while they” and all that follows through “clinical training”.

(b)(1) Section 4143(b) is amended—

Stipend;
limitations.

Maximum
stipend.

Scholarship
award period
extension.

(A) by inserting "who is a full-time student or the date described in paragraph (5) of this subsection with respect to a participant who is a part-time student" in paragraph (1) after "Scholarship Program";

(B) by amending paragraph (2) to read as follows:

"(2) As soon as possible after the applicable date described in paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is such an employee but is not serving in a position for which such participant's course of training prepared such participant, assign such participant to such a position.";

(C) in paragraph (3)(B) by inserting "the later of (i) the date upon which the participant completes such participant's course of training, or (ii)" after "is"; and

(D) by adding at the end the following new paragraph:

"(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection."

(2) Section 4143(c) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (a) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this subsection, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of training under the program."

"Course completion date."

(c) Section 4144(b) is amended—

(1) in clauses (1) and (2), by striking out the semicolon at the end and inserting in lieu thereof a comma;

(2) by striking out the semicolon and "or" at the end of clause (3) and inserting in lieu thereof a comma;

(3) by striking out the semicolon at the end of clause (4) and inserting in lieu thereof a comma and "or"; and

(4) by inserting after clause (4) the following new clause:

"(5) in the case of a participant who is a part-time student, fails to maintain employment, while enrolled in the course of

38 USC 4144.

training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility."

CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

38 USC 601.

SEC. 4. Section 601(4)(C)(v) is amended by striking out "September 30, 1982," and inserting in lieu thereof "September 30, 1983,".

RESTORATION OF CHAMPVA ELIGIBILITY FOR CERTAIN MEDICARE BENEFICIARIES

38 USC 613

SEC. 5. (a) Section 613 is amended by adding at the end the following new subsection:

"(d) Notwithstanding the second sentence of section 1086(c) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after losing eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall become eligible for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such hospital insurance benefits."

Effective date.
38 USC 613 note.

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

EXTENSION FOR REPORT ON ALCOHOL AND DRUG DEPENDENCE AND ABUSE PILOT PROGRAM

38 USC 620A.

SEC. 6. Section 620A(f) is amended by striking out "March 31, 1983," and "September 30, 1982," and inserting in lieu thereof "March 31, 1984," and "September 30, 1983," respectively.

TECHNICAL AMENDMENT RELATING TO PAYMENTS TO STATE VETERANS' HOMES

38 USC 643.

SEC. 7. Section 643 is amended by striking out "of any war".

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS TO STATE VETERANS' HOMES

38 USC 5033.

SEC. 8. The first sentence of section 5033(a) is amended to read as follows: "There is hereby authorized to be appropriated \$15,000,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981 and for each of the five succeeding fiscal years."

EXCHANGE OF MEDICAL INFORMATION WITH STATE VETERANS' HOMES

38 USC 5054.

SEC. 9. Section 5054(b) is amended by inserting "(including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans)" before the period at the end of the first sentence.

REPORT ON THE USE OF FLEXIBLE AND COMPRESSED WORK SCHEDULES BY THE VETERANS' ADMINISTRATION

Report to
Congress.
38 USC 219 note.

SEC. 10. Not later than July 1, 1984, the Administrator of Veterans' Affairs shall submit to Congress a report on the results of the use of flexible and compressed work schedules by the Veterans'

Administration. Such report shall include (1) an evaluation of the effects of the use of such schedules on the recruitment and retention of Veterans' Administration employees, on such employees' productivity and morale, and on such employees' effectiveness in carrying out the missions of the Veterans' Administration, and (2) such recommendations for administrative or legislative action, or both, as the Administrator considers appropriate in light of the need for and use of flexible and compressed work schedules by the Veterans' Administration.

Approved September 8, 1982.

LEGISLATIVE HISTORY—H.R. 6350 (S. 2385):

HOUSE REPORT No. 97-543 (Comm. on Veterans' Affairs).
SENATE REPORT No. 97-467 accompanying S. 2385 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 128 (1982):
June 14, 15, considered and passed House.
June 21, considered and passed Senate, amended, in lieu of S. 2385.
Aug. 19, House concurred in Senate amendments with amendments.
Aug. 20, Senate concurred in House amendments.