

on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to the Under Secretary—

“(i) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act); and
 “(ii) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.”

INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS

Pub. L. 108-445, §3(c), Dec. 3, 2004, 118 Stat. 2641, provided that: “The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

“Base Pay Step:	Rate of Pay:
1	\$90,000
2	\$93,000
3	\$96,000
4	\$99,000
5	\$102,000
6	\$105,000
7	\$108,000
8	\$111,000
9	\$114,000
10	\$117,000
11	\$120,000
12	\$123,000
13	\$126,000
14	\$129,000
15	\$132,000.”

§ 7432. Pay of Under Secretary for Health

(a) **BASE PAY.**—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

(b) **MARKET PAY.**—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

(c) **TREATMENT OF PAY.**—Pay under this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

(Added Pub. L. 108-445, §3(b), Dec. 3, 2004, 118 Stat. 2640.)

PRIOR PROVISIONS

A prior section 7432, added Pub. L. 102-40, title I, §102, May 7, 1991, 105 Stat. 189; amended Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104-262, title III, §346, Oct. 9, 1996, 110 Stat. 3208, related to written agreements for special pay, prior to the general amendment of this subchapter by Pub. L. 108-445.

§ 7433. Administrative matters

(a) **REGULATIONS.**—(1) The Secretary shall prescribe regulations relating to the pay of physi-

cians and dentists in the Veterans Health Administration under this subchapter.

(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter. In formulating recommendations for the purpose of this paragraph, the Under Secretary shall request the views of representatives of labor organizations that are exclusive representatives of physicians and dentists of the Department and the views of representatives of professional organizations of physicians and dentists of the Department.

(b) **REPORTS.**—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 5 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

(2) Each report under this subsection shall include the following:

(A) A description of the rates of pay in effect during the current fiscal year with a comparison to the rates in effect during the fiscal year preceding the current fiscal year, set forth by facility and by specialty.

(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the current fiscal year and for the fiscal year preceding the current fiscal year, set forth by facility and by specialty.

(Added Pub. L. 108-445, §3(b), Dec. 3, 2004, 118 Stat. 2640.)

PRIOR PROVISIONS

Prior sections 7433 to 7440 were omitted in the general amendment of this subchapter by Pub. L. 108-445.

Section 7433, added Pub. L. 102-40, title I, §102, May 7, 1991, 105 Stat. 191; amended Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103-446, title XII, §1201(e)(22), Nov. 2, 1994, 108 Stat. 4686, related to special pay for full-time physicians.

Section 7434, added Pub. L. 102-40, title I, §102, May 7, 1991, 105 Stat. 192, related to special pay of part-time physicians.

Section 7435, added Pub. L. 102-40, title I, §102, May 7, 1991, 105 Stat. 193; amended Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103-446, title XII, §1201(e)(22), Nov. 2, 1994, 108 Stat. 4686; Pub. L. 106-419, title II, §202(a)-(f), Nov. 1, 2000, 114 Stat. 1840, 1841, related to special pay of full-time dentists.

Section 7436, added Pub. L. 102-40, title I, § 102, May 7, 1991, 105 Stat. 194, related to special pay of part-time dentists.

Section 7437, added Pub. L. 102-40, title I, § 102, May 7, 1991, 105 Stat. 194; amended Pub. L. 102-405, title II, § 204(a), title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1983, 1984, related to general provisions concerning special pay of physicians and dentists.

Section 7438, added Pub. L. 102-40, title I, § 102, May 7, 1991, 105 Stat. 196; amended Pub. L. 106-419, title II, § 202(g), Nov. 1, 2000, 114 Stat. 1841, related to coordination of special pay with other benefits laws.

Section 7439, added Pub. L. 102-40, title I, § 102, May 7, 1991, 105 Stat. 197, related to periodic review and quadrennial reports regarding pay of physicians and dentists.

Section 7440, added Pub. L. 102-40, title I, § 102, May 7, 1991, 105 Stat. 198; amended Pub. L. 103-446, title XII, § 1201(c)(6), Nov. 2, 1994, 108 Stat. 4684, related to annual reports of the use of authorities provided in this subchapter.

SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

§ 7451. Nurses and other health-care personnel: competitive pay

(a)(1) It is the purpose of this section to ensure, by a means providing increased responsibility and authority to directors of Department health-care facilities, that the rates of basic pay for health-care personnel positions described in paragraph (2) in each Department health-care facility (including the rates of basic pay of personnel employed in such positions on a part-time basis) are sufficient for that facility to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the same labor-market area in the recruitment and retention of qualified personnel for those positions.

(2) The health-care personnel positions referred to in paragraph (1) (hereinafter in this section referred to as "covered positions") are the following:

(A) Registered nurse.

(B) Such positions referred to in paragraphs (1) and (3) of section 7401 of this title (other than the positions of physician, dentist, and registered nurse) as the Secretary may determine upon the recommendation of the Under Secretary for Health.

(3)(A) Except as provided in subparagraph (B), the rates of basic pay for covered positions in the Department shall be established and adjusted in accordance with this section instead of subsection (b)(1) of section 7404 of this title or chapter 53 of title 5.

(B) Under such regulations as the Secretary shall prescribe, the Secretary shall establish and adjust the rates of basic pay for covered positions at the following health-care facilities in order to provide rates of basic pay that enable the Secretary to recruit and retain sufficient numbers of health-care personnel in such positions at those facilities:

(i) The Veterans Memorial Medical Center in the Republic of the Philippines.

(ii) Department of Veterans Affairs health-care facilities located outside the contiguous States, Alaska, and Hawaii.

(4) The Secretary, after receiving the recommendation of the Under Secretary for Health,

shall prescribe regulations setting forth criteria and procedures to carry out this section and section 7452 of this title. Requirements in such regulations for directors to provide and maintain documentation of actions taken under this section shall require no more documentation than the minimum essential for responsible administration.

(b) The Secretary shall maintain the five grade levels for nurses employed by the Department under section 7401(1) of this title as specified in the Nurse Schedule in section 7404(b) of this title. The Secretary shall, pursuant to regulations prescribed to carry out this subchapter, establish grades for other covered positions as the Secretary considers appropriate.

(c)(1) For each grade in a covered position, there shall be a range of basic pay. The maximum rate of basic pay for a grade shall be 133 percent of the minimum rate of basic pay for the grade, except that, if the Secretary determines that a higher maximum rate is necessary with respect to any such grade in order to recruit and retain a sufficient number of high-quality health-care personnel, the Secretary may raise the maximum rate of basic pay for that grade to a rate not in excess of 175 percent of the minimum rate of basic pay for the grade. Whenever the Secretary exercises the authority under the preceding sentence to establish the maximum rate of basic pay at a rate in excess of 133 percent of the minimum rate for that grade, the Secretary shall, in the next annual report required by subsection (g),¹ provide justification for doing so to the Committees on Veterans' Affairs of the Senate and House of Representatives.

(2) The maximum rate of basic pay for any grade for a covered position may not exceed the maximum rate of basic pay established for positions in level IV of the Executive Schedule under section 5316¹ of title 5. The maximum rate of basic pay for a grade for the position of certified registered nurse anesthetist pursuant to an adjustment under subsection (d) may exceed the maximum rate otherwise provided in the preceding sentence.

(3) The range of basic pay for each such grade shall be divided into equal increments, known as "steps". The Secretary shall prescribe the number of steps. Each grade in a covered position shall have the same number of steps. Rates of pay within a grade may not be established at rates other than whole steps. Any increase (other than an adjustment under subsection (d)) within a grade in the rate of basic pay payable to an employee in a covered position shall be by one or more of such step increments.

(d)(1) Subject to subsection (e), the rates of basic pay for each grade in a covered position shall be adjusted periodically in accordance with this subsection in order to achieve the purposes of this section. Such adjustments shall be made—

(A) whenever there is an adjustment under section 5303 of title 5 in the rates of pay under the General Schedule, with the adjustment under this subsection to have the same effective date and to be by the same percentage as

¹ See References in Text note below.