

Subsec. (b)(5)(C). Pub. L. 107-251, §311(1)(B)(iii), redesignated subpar. (E) as (C). Former subpar. (C) redesignated (B).

Subsec. (b)(5)(C)(i). Pub. L. 107-251, §311(1)(B)(iv), substituted "subparagraph (A)" for "subparagraph (A), (B), or (D)".

Subsec. (b)(5)(D). Pub. L. 107-251, §311(1)(B)(ii), struck out subpar. (D) which read as follows: "In the case of the Scholarship Program, with respect to an individual receiving a degree from an institution other than a school referred to in subparagraph (A), the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the academic training of the individual leading to such degree."

Subsec. (b)(5)(E). Pub. L. 107-251, §311(1)(B)(iii), redesignated subpar. (E) as (C).

Subsec. (e). Pub. L. 107-251, §311(2), struck out subsec. (e) which related to service under National Research Service Award program as credit against obligated service time.

1990—Subsec. (d). Pub. L. 101-597 substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

1988—Subsec. (b)(5). Pub. L. 100-607 substituted "osteopathic medicine" for "osteopathy" wherever appearing.

1987—Subsec. (a). Pub. L. 100-177, §306(1), inserted "or 254l-1", and made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(1). Pub. L. 100-177, §306(2), inserted reference to section 254l-1(f)(1)(B)(iv).

Subsec. (b)(5). Pub. L. 100-177, §306(3), substituted par. (5) consisting of subpars. (A) to (E) for former par. (5) consisting of subpars. (A) and (B).

Subsec. (c)(2). Pub. L. 100-177, §306(4), made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

1983—Subsec. (e). Pub. L. 97-414 inserted "or under section 234 of this title as in effect on September 30, 1977" after "Scholarship Program".

1981—Subsec. (a). Pub. L. 97-35, §2709(c)(1), substituted "254n" for "294v" and "254l" for "294t".

Subsec. (b). Pub. L. 97-35, §2709(c)(2), substituted provisions relating to notice, information, etc., for individuals required to give obligated service, for provisions relating to notice, information, etc., for individuals required to provide service under the Scholarship Program.

Subsec. (c). Pub. L. 97-35, §2709(c)(3), (4), in par. (1) inserted reference to designation under subsec. (b)(3) or (4) of this section, and in par. (2) substituted "254n" for "294v".

Subsec. (d). Pub. L. 97-35, §2709(c)(5), inserted provision relating to individuals who are officers in the Service or civilian employees of the United States, and substituted reference to sections 254d to 254h, 254j, and 254k of this title, for reference to subpart II of part D of subchapter II of this chapter.

Subsec. (e). Pub. L. 97-35, §2709(c)(6), substituted provisions respecting mandatory determination of service requirement, for provisions respecting discretionary determination of service requirement.

1979—Subsec. (b)(5)(A). Pub. L. 96-76, §202(a), (b)(1), (2), inserted provisions authorizing a greater period than three years for individuals receiving degrees from schools of medicine, osteopathy, and dentistry, and provisions respecting individuals receiving degrees from schools of veterinary medicine, optometry, podiatry, and pharmacy, and substituted "No period" for "No such period".

Subsec. (b)(5)(B). Pub. L. 96-76, §202(b)(3), substituted "referred to in subparagraph (A)" for "of medicine, osteopathy, or dentistry".

1978—Subsec. (d). Pub. L. 95-626 substituted "subpart II of part D" for "subpart II of part C".

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title XXVII, §2709(h), Aug. 13, 1981, 95 Stat. 912, provided that: "The amendments made by

paragraphs (2), (3), and (5)(B) of subsection (c) [amending this section] shall apply with respect to contracts entered into under the National Health Service Corps scholarship program under subpart III of part C of title VII of the Public Health Service Act [42 U.S.C. 294r et seq.] after the date of the enactment of this Act [Aug. 13, 1981]. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to serve such period as a member of the National Health Service Corps who is not an employee of the United States."

#### EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as a note under section 254l of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 254l of this title.

SPECIAL RETENTION PAY FOR REGULAR OR RESERVE OFFICERS FOR PERIOD OFFICER IS OBLIGATED UNDER THIS SECTION

Pub. L. 100-446, title II, Sept. 27, 1988, 102 Stat. 1816, provided that: "the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B [now 338C] of the Public Health Service Act [42 U.S.C. 254m] and assigned and providing direct health services or serving the officer's obligation as a specialist".

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100-202, §101(g) [title II], Dec. 22, 1987, 101 Stat. 1329-213, 1329-246.

Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-277, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-277.

### § 254n. Private practice

#### (a) Application for release of obligations; conditions

The Secretary shall, to the extent permitted by, and consistent with, the requirements of applicable State law, release an individual from all or part of his service obligation under section 254m(a) of this title or under section 234<sup>1</sup> of this title (as in effect on September 30, 1977) if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of his service obligation in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his health profession—

(1) in the case of an individual who received a scholarship under the Scholarship Program or a loan repayment under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health professional shortage area on the date of his application for such a release, in the health professional shortage area in which such individual is serving on such date or in

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

the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health professional shortage area on the date of the application of the individual for such a release, in the health professional shortage area selected by the Secretary; or

(2) in the case of any other individual, in a health professional shortage area (designated under section 254e of this title) selected by the Secretary.

**(b) Written agreement; actions to ensure compliance**

(1) The written agreement described in subsection (a) of this section shall—

(A) provide that, during the period of private practice by an individual pursuant to the agreement, the individual shall comply with the requirements of section 254g of this title that apply to entities; and

(B) contain such additional provisions as the Secretary may require to carry out the objectives of this section.

(2) The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to.

**(c) Breach of service contract**

If an individual breaches the contract entered into under section 254l or 254l-1 of this title by failing (for any reason) to begin his service obligation in accordance with an agreement entered into under subsection (a) of this section or to complete such service obligation, the Secretary may permit such individual to perform such service obligation as a member of the Corps.

**(d) Travel expenses**

The Secretary may pay an individual who has entered into an agreement with the Secretary under subsection (a) of this section an amount to cover all or part of the individual's expenses reasonably incurred in transporting himself, his family, and his possessions to the location of his private clinical practice.

**(e) Sale of equipment and supplies**

Upon the expiration of the written agreement under subsection (a) of this section, the Secretary may (notwithstanding any other provision of law) sell to the individual who has entered into an agreement with the Secretary under subsection (a) of this section, equipment and other property of the United States utilized by such individual in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property, except that the Secretary may make such sales for a lesser value to the individual if he determines that the individual is financially unable to pay the full market value.

**(f) Malpractice insurance**

The Secretary may, out of appropriations authorized under section 254k of this title, pay to individuals participating in private practice under this section the cost of such individual's malpractice insurance and the lesser of—

(1)(A) \$10,000 in the first year of obligated service;

(B) \$7,500 in the second year of obligated service;

(C) \$5,000 in the third year of obligated service; and

(D) \$2,500 in the fourth year of obligated service; or

(2) an amount determined by subtracting such individual's net income before taxes from the income the individual would have received as a member of the Corps for each such year of obligated service.

**(g) Technical assistance**

The Secretary shall, upon request, provide to each individual released from service obligation under this section technical assistance to assist such individual in fulfilling his or her agreement under this section.

(July 1, 1944, ch. 373, title III, §338D, formerly title VII, §753, as added Pub. L. 94-484, title IV, §408(b)(1), Oct. 12, 1976, 90 Stat. 2285; amended Pub. L. 96-538, title IV, §403, Dec. 17, 1980, 94 Stat. 3192; renumbered §338C and amended Pub. L. 97-35, title XXVII, §2709(a), (d), Aug. 13, 1981, 95 Stat. 908, 910; renumbered §338D and amended Pub. L. 100-177, title II, §201(2), title III, §307, Dec. 1, 1987, 101 Stat. 992, 1005; Pub. L. 101-597, title IV, §401(b)[(a)], Nov. 16, 1990, 104 Stat. 3035; Pub. L. 107-251, title III, §312, Oct. 26, 2002, 116 Stat. 1650.)

REFERENCES IN TEXT

Section 234 of this title, referred to in subsec. (a), was repealed by Pub. L. 94-484, title IV, §408(b)(1), Oct. 12, 1976, 90 Stat. 2281, effective Oct. 1, 1977.

CODIFICATION

Section was formerly classified to section 294v of this title prior to its renumbering by Pub. L. 97-35.

PRIOR PROVISIONS

A prior section 338D of act July 1, 1944, was renumbered section 338E by section 201(2) of Pub. L. 100-177 and is classified to section 254o of this title.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107-251 added subsec. (b) and struck out former subsec. (b) which related to written agreements, regulations, and actions to ensure compliance.

1990—Subsec. (a)(1), (2). Pub. L. 101-597 substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

1987—Subsec. (a). Pub. L. 100-177, §307(1)-(3), made technical amendment to reference to section 254m of this title to reflect renumbering of corresponding section of original act, in introductory provisions, in par. (1) inserted “who received a scholarship under the Scholarship Program or a loan repayment under the Loan Repayment Program and” after “individual” the first time it appeared as the probable intent of Congress, and inserted “or in the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of the application of the individual for such a release, in the health manpower shortage area selected by the Secretary”, and in par. (2) inserted “selected by the Secretary”.

Subsec. (b). Pub. L. 100-177, §307(4), inserted at end “The Secretary shall take such action as may be appropriate to ensure that the conditions of the written

agreement prescribed by this subsection are adhered to.”

Subsec. (c). Pub. L. 100-177, § 307(5), inserted reference to section 254l-1.

Subsec. (e). Pub. L. 100-177, § 307(b), designated par. (2) as entire subsection and struck out par. (1) which read as follows: “The Secretary may make such arrangements as he determines are necessary for the individual for the use of equipment and supplies and for the lease or acquisition of other equipment and supplies.”

1981—Subsec. (a). Pub. L. 97-35, § 2709(d)(1), inserted provision respecting requirements of applicable State law, substituted references to sections 254m(a) and 234 of this title, for reference to section 294u(a) of this title, and in cl. (2) struck out priority requirement under section 254f(c) of this title.

Subsec. (b)(1)(B). Pub. L. 97-35, § 2709(d)(2), inserted “(i)” before “shall not” and added cl. (ii).

Subsecs. (c) to (g). Pub. L. 97-35, § 2709(d)(3), added subsecs. (c) to (g).

1980—Subsec. (a). Pub. L. 96-538 substituted in par. (2) “which has” for “which (A) has” and struck out subpar. (B) which referred to a health manpower shortage area which has a sufficient financial base to sustain private practice and provide the individual with income of not less than the income of members of the Corps, and struck out provision following par. (2) which provided that in the case of an individual described in par. (1), the Secretary release the individual from his service obligation under this subsection only if the Secretary determines that the area in which the individual is serving met the requirements of cl. (B) of par. (2).

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as a note under section 254l of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 254l of this title.

**§ 254o. Breach of scholarship contract or loan repayment contract**

**(a) Failure to maintain academic standing; dismissal from institution; voluntary termination; liability; failure to accept payment**

(1) An individual who has entered into a written contract with the Secretary under section 254l of this title and who—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

(B) is dismissed from such educational institution for disciplinary reasons; or

(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract, before the completion of such training,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(2) An individual who has entered into a written contract with the Secretary under section 254l-1 of this title and who—

(A) in the case of an individual who is enrolled in the final year of a course of study, fails to maintain an acceptable level of academic standing in the educational institution

in which such individual is enrolled (such level determined by the educational institution under regulations of the Secretary) or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study; or

(B) in the case of an individual who is enrolled in a graduate training program, fails to complete such training program and does not receive a waiver from the Secretary under section 254l-1(b)(1)(B)(ii) of this title,

in lieu of any service obligation arising under such contract shall be liable to the United States for the amount that has been paid on behalf of the individual under the contract.

**(b) Failure to commence or complete service obligations; formula to determine liability; payment to United States; recovery of delinquent damages; disclosure to credit reporting agencies**

(1)(A) Except as provided in paragraph (2), if an individual breaches his written contract by failing (for any reason not specified in subsection (a) of this section or section 254p(d) of this title) to begin such individual's service obligation under section 254l of this title in accordance with section 254m or 254n of this title, to complete such service obligation, or to complete a required residency as specified in section 254l(f)(1)(B)(iv) of this title, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A=3\phi \left( \frac{t-s}{t} \right)$$

in which “A” is the amount the United States is entitled to recover, “ $\phi$ ” is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; “t” is the total number of months in the individual's period of obligated service; and “s” is the number of months of such period served by him in accordance with section 254m of this title or a written agreement under section 254n of this title.

(B)(i) Any amount of damages that the United States is entitled to recover under this subsection or under subsection (c) of this section shall, within the 1-year period beginning on the date of the breach of the written contract (or such longer period beginning on such date as specified by the Secretary), be paid to the United States. Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1395ccc of this title.

(ii) If damages described in clause (i) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

(I) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

(II) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.