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AMENDMENTS

2019—Pub. L. 116–12, §1(b)(4), Apr. 8, 2019, 133 Stat. 845, substituted “PAY FOR PHYSICIANS, PODIATRISTS, AND DENTISTS” for “PAY FOR PHYSICIANS AND DENTISTS” in item for subchapter III.

2018—Pub. L. 115–182, title V, §502(a)(2), June 6, 2018, 132 Stat. 1475, which directed amendment of the table of sections for chapter 74 by adding item 7413 after item 7412, without specifying the Code title to be amended, was executed to the table of sections for this chapter, to reflect the probable intent of Congress.

2014—Pub. L. 113–146, §301(a)(2), Aug. 7, 2014, 128 Stat. 1784, added item 7412.

2010—Pub. L. 111–163, title VI, §602(a)(2), May 5, 2010, 124 Stat. 1173, added item 7459.

2004—Pub. L. 108–445, §§3(g), 4(a)(2), Dec. 3, 2004, 118 Stat. 2643, 2645, substituted “PAY FOR PHYSICIANS AND DENTISTS” for “SPECIAL PAY FOR PHYSICIANS AND DENTISTS” in item for subchapter III, “Pay” for “Special pay: authority” in item 7431, “Pay of Under Secretary for Health” for “Special pay: written agreements” in item 7432, “Administrative matters” for “Special pay: full-time physicians” in item 7433, struck out items 7434 “Special pay: part-time physicians”, 7435 “Special pay: full-time dentists”, 7436 “Special pay: part-time dentists”, 7437 “Special pay: general provisions”, 7438 “Special pay: coordination with other benefits laws”, 7439 “Periodic review of pay of physicians and dentists; quadrennial report”, and 7440 “Annual report”, and added item 7456A.

1991—Pub. L. 102–40, title I, §§102, 103(a)(2), title II, §203(b), title IV, §401(b)(1), May 7, 1991, 105 Stat. 187, 199, 207, 221, added chapter heading and analysis.

SUBCHAPTER I—APPOINTMENTS

**§ 7401. Appointments in Veterans Health Administration**

There may be appointed by the Secretary such personnel as the Secretary may find necessary for the health care of veterans (in addition to those in the Office of the Under Secretary for Health appointed under section 7306 of this title), as follows:

(1) Physicians, dentists, podiatrists, chiropractors, optometrists, registered nurses, physician assistants, and expanded-function dental auxiliaries.

(2) Scientific and professional personnel, such as microbiologists, chemists, and biostatisticians.

(3) Audiologists, licensed hearing aid specialists, speech pathologists, and audiologist-speech pathologists, biomedical engineers, certified or registered respiratory therapists, dietitians, licensed physical therapists, licensed practical or vocational nurses, nurse assistants, medical instrument technicians, medical records administrators or specialists, medical records technicians, medical technologists, dental hygienists, dental assistants, nuclear medicine technologists, occupational therapists, occupational therapy assistants, kinesiotherapists, orthotist-prosthetists, pharmacists, pharmacy technicians, physical therapy assistants, prosthetic representatives, psychologists, diagnostic radiologic technologists, therapeutic radiologic technologists, social workers, marriage and family therapists, licensed professional mental health counselors, blind rehabilitation specialists, blind rehabilitation outpatient specialists, and such other classes of health care occupations as the Secretary considers necessary for the recruitment and retention needs of the Department subject to the following requirements:

(A) Such other classes of health care occupations—

(i) are not occupations relating to administrative, clerical, or physical plant maintenance and protective services;

(ii) would otherwise receive basic pay in accordance with the General Schedule under section 5332 of title 5;

(iii) provide, as determined by the Secretary, direct patient care services or services incident to direct patient services; and

(iv) would not otherwise be available to provide medical care or treatment for veterans.

(B) Not later than 45 days before the Secretary appoints any personnel for a class of health care occupations that is not specifically listed in this paragraph, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate, the Committee on Veterans' Affairs of the House of Representatives, and the Office of Management and Budget notice of such appointment.

(C) Before submitting notice under subparagraph (B), the Secretary shall solicit comments from any labor organization rep-

resenting employees in such class and include such comments in such notice.

(4) Directors of medical centers and directors of Veterans Integrated Service Networks with demonstrated ability in the medical profession, in health care administration, or in health care fiscal management.

(Added Pub. L. 102-40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 222; amended Pub. L. 102-405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 108-170, title III, §§ 301(a)(1), 302(a), Dec. 6, 2003, 117 Stat. 2054, 2057; Pub. L. 108-422, title V, § 502, Nov. 30, 2004, 118 Stat. 2396; Pub. L. 109-461, title II, § 201(a), Dec. 22, 2006, 120 Stat. 3409; Pub. L. 111-163, title VI, § 601(a), May 5, 2010, 124 Stat. 1167; Pub. L. 114-58, title VI, § 601(23), Sept. 30, 2015, 129 Stat. 539; Pub. L. 114-256, § 4(a)(1), Dec. 14, 2016, 130 Stat. 1347; Pub. L. 115-41, title II, § 207(a), June 23, 2017, 131 Stat. 877.)

### Editorial Notes

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4104 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

#### AMENDMENTS

2017—Par. (4). Pub. L. 115-41 added par. (4).

2016—Par. (3). Pub. L. 114-256 inserted “licensed hearing aid specialists,” after “Audiologists,” in introductory provisions.

2015—Par. (3)(A)(ii). Pub. L. 114-58 struck out “that” before “would otherwise receive”.

2010—Par. (3). Pub. L. 111-163 inserted “nurse assistants,” after “licensed practical or vocational nurses,” substituted “blind rehabilitation outpatient specialists, and such other classes of health care occupations as the Secretary considers necessary for the recruitment and retention needs of the Department subject to the following requirements:” for “and blind rehabilitation outpatient specialists,” and added subpars. (A) to (C).

2006—Par. (3). Pub. L. 109-461 inserted “marriage and family therapists, licensed professional mental health counselors,” after “social workers,”.

2004—Par. (3). Pub. L. 108-422 substituted “technologists, dental hygienists, dental assistants” for “and dental technologists” and “technologists, therapeutic radiologic technologists, social workers, blind rehabilitation specialists, and blind rehabilitation outpatient specialists” for “technicians, therapeutic radiologic technicians, and social workers”.

2003—Pub. L. 108-170, § 302(a)(1), substituted “health” for “medical” in introductory provisions.

Par. (1). Pub. L. 108-170, § 302(a)(2), inserted “chiropractors,” after “podiatrists,”.

Par. (2). Pub. L. 108-170, § 301(a)(1)(A), added par. (2) and struck out former par. (2) which read as follows: “Psychologists (other than those described in paragraph (3)), dietitians, and other scientific and professional personnel, such as microbiologists, chemists, biostatisticians, and medical and dental technologists.”

Par. (3). Pub. L. 108-170, § 301(a)(1)(B), added par. (3) and struck out former par. (3) which read as follows: “Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.”

1992—Pub. L. 102-405 substituted “Under Secretary for Health” for “Chief Medical Director”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 302(a) of Pub. L. 108-170 effective at end of 180-day period beginning on Dec. 6, 2003, see section 302(h) of Pub. L. 108-170, set out as a note under section 7316 of this title.

#### DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM FOR CLINICAL OBSERVATION BY UNDERGRADUATE STUDENTS

Pub. L. 116-315, title III, § 3010, Jan. 5, 2021, 134 Stat. 4997, provided that:

“(a) ESTABLISHMENT.—The Secretary of Veterans Affairs shall carry out a pilot program for a one-year period, beginning not later than August 15, 2021, to provide certain students described in subsection (d) a clinical observation experience at medical centers of the Department of Veterans Affairs.

“(b) MEDICAL CENTER SELECTION.—The Secretary shall carry out the pilot program under this section at not fewer than five medical centers of the Department. In selecting such medical centers, the Secretary shall ensure regional diversity among such selected medical centers.

“(c) CLINICAL OBSERVATION SESSIONS.—

“(1) FREQUENCY AND DURATION.—In carrying out the pilot program, the Secretary shall—

“(A) provide at least one and not more than three clinical observation sessions at each medical center selected during each calendar year;

“(B) ensure that each clinical observation session—

“(i) lasts between four and six months; and

“(ii) to the extent practicable, begins and ends concurrently with one or more academic terms of an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); and

“(C) ensure that the clinical observation sessions provided at a medical center have minimal overlap.

“(2) SESSIONS.—The Secretary shall ensure that the pilot program consists of clinical observation sessions as follows:

“(A) Each session shall allow for not fewer than five students nor greater than 15 students to participate in the session.

“(B) Each session shall consist of not fewer than 20 observational hours nor greater than 40 observational hours.

“(C) A majority of the observational hours shall be spent observing a health professional. The other observational hours shall be spent in a manner that ensures a robust, well rounded experience that exposes the students to a variety of aspects of medical care and health care administration.

“(D) Each session shall provide a diverse clinical observation experience.

“(d) STUDENTS.—

“(1) SELECTION.—The Secretary shall select to participate in the pilot program under subsection (a) students who are—

“(A) nationals of the United States;

“(B) enrolled in an accredited program of study at an institution of higher education; and

“(C) referred by their institution of higher education following an internal application process.

“(2) PRIORITY.—In making such selection, the Secretary shall give priority to each of the following five categories of students:

“(A) Students who, at the time of the completion of their secondary education, resided in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

“(B) First generation college students (as defined in section 402A(h)(3) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))).

“(C) Students who have been referred by minority-serving institutions (as defined in section 371(a)

of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)).

“(D) Veterans (as defined in section 101 of title 38, United States Code).

“(E) Students who indicate an intention to specialize in a health professional occupation identified by the Inspector General of the Department under section 7412 of title 38, United States Code, as having a staffing shortage.

“(3) ASSIGNMENT TO MEDICAL CENTERS.—The Secretary shall assign students selected under paragraph (1) to medical centers selected under subsection (b) without regard for whether such medical centers have staffing shortages in any health professional occupation pursuant to section 7412 of title 38, United States Code.

“(e) OTHER MATTERS.—In carrying out the pilot program under this section, the Secretary shall—

“(1) establish a formal status to facilitate the access to medical centers of the Department by student observers participating in the pilot program;

“(2) establish standardized legal, privacy, and ethical requirements for the student observers, including with respect to—

“(A) ensuring that no student observer provides any care to patients while participating as an observer; and

“(B) ensuring the suitability of a student to participate in the pilot program to ensure that the student poses no risk to patients;

“(3) develop and implement a partnership strategy with minority-serving institutions to encourage referrals;

“(4) create standardized procedures for student observers;

“(5) create an online information page about the pilot program on the internet website of the Department;

“(6) publish on the online information page created under paragraph (5) the locations of such centers, and other information on the pilot program, not later than 180 days before the date on which applications are required to be submitted by potential student observers;

“(7) identify medical centers and specific health professionals participating in the pilot program; and

“(8) notify the Committees on Veterans' Affairs of the House of Representatives and the Senate of the medical centers selected under subsection (c) within 30 days of selection, to facilitate program awareness.

“(f) REPORT.—Not later than 180 days after the completion of the pilot program under subsection (a), the Secretary shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the results of the pilot program, including—

“(1) the number and demographics of all applicants, those accepted to participate in the pilot program, and those who completed the pilot program; and

“(2) if participating institutions of higher education choose to administer satisfaction surveys that assess the experience of those who completed the pilot program, the results of any such satisfaction surveys, provided at the discretion of the institution of higher education.

“(g) SENSE OF CONGRESS REGARDING DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM FOR CLINICAL OBSERVATION BY UNDERGRADUATE STUDENTS.—It is the sense of Congress that the pilot program described in subsection (a) should be designed to—

“(1) increase the awareness, knowledge, and empathy of future health professionals toward the health conditions common to veterans;

“(2) increase the diversity of the recruitment pool of future physicians of the Department; and

“(3) expand clinical observation opportunities for all students by encouraging students of all backgrounds to consider a career in the health professions.

“(h) NO ADDITIONAL FUNDS AUTHORIZED.—No additional funds are authorized to be appropriated to carry

out the requirements of this section. Such requirements shall be carried out using amounts otherwise authorized to be appropriated.”

#### OCCUPATIONAL SERIES FOR CERTAIN MENTAL HEALTH PROVIDERS

Pub. L. 116-171, title V, § 501(b), Oct. 17, 2020, 134 Stat. 815, provided that: “Not later than one year after the date of the enactment of this Act [Oct. 17, 2020], the Secretary of Veterans Affairs, in consultation with the Office of Personnel Management, shall develop an occupational series for licensed professional mental health counselors and marriage and family therapists of the Department of Veterans Affairs.”

#### ENCOURAGEMENT OF TRANSITION OF MILITARY MEDICAL PROFESSIONALS INTO EMPLOYMENT WITH VETERANS HEALTH ADMINISTRATION

Pub. L. 115-46, title II, § 207, Aug. 12, 2017, 131 Stat. 964, provided that: “The Secretary of Veterans Affairs shall establish a program to encourage an individual who serves in the Armed Forces with a military occupational specialty relating to the provision of health care to seek employment with the Veterans Health Administration when the individual has been discharged or released from service in the Armed Forces or is contemplating separating from such service.”

#### TRAINING FOR HUMAN RESOURCES PROFESSIONALS OF VETERANS HEALTH ADMINISTRATION ON RECRUITMENT AND RETENTION

Pub. L. 115-46, title II, § 209, Aug. 12, 2017, 131 Stat. 965, provided that:

“(a) IN GENERAL.—The Secretary of Veterans Affairs shall provide to human resources professionals of the Veterans Health Administration training on how to best recruit and retain employees of the Veterans Health Administration, including with respect to any recruitment and retention matters that are unique to the Veterans Health Administration pursuant to chapter 74 of title 38, United States Code, or other provisions of law.

“(b) VIRTUAL TRAINING.—Training provided under this section shall be provided virtually.

“(c) AMOUNT OF TRAINING.—The Secretary shall ensure that each human resources professional of the Veterans Health Administration receives the training described in subsection (a)—

“(1) as soon as practicable after being hired by the Secretary as a human resources professional; and

“(2) annually thereafter.

“(d) CERTIFICATION.—The Secretary shall require that each human resources professional of the Veterans Health Administration, upon the completion of the training described in subsection (a), certifies that the professional received the training and understands the information provided by the training.

“(e) ANNUAL REPORT.—Not less frequently than annually, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the training described in subsection (a), including the cost of providing such training and the number of human resources professionals who received such training during the year covered by the report.”

#### PLAN TO HIRE DIRECTORS OF MEDICAL CENTERS OF DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 115-46, title II, § 210, Aug. 12, 2017, 131 Stat. 965, provided that:

“(a) PLAN.—Not later than 120 days after the date of the enactment of this Act [Aug. 12, 2017], the Secretary of Veterans Affairs shall develop and implement a plan to hire highly qualified directors for each medical center of the Department of Veterans Affairs that lacks a permanent director as of the date of the plan.

“(b) PRIORITY.—The Secretary shall prioritize under the plan developed under subsection (a) the hiring of directors for medical centers that have not had a permanent director for the longest periods.

“(c) MATTERS INCLUDED.—The plan developed under subsection (a) shall include the following:

“(1) A deadline to hire directors of medical centers of the Department as described in such subsection.

“(2) Identification of the possible impediments to such hiring.

“(3) Identification of opportunities to promote and train candidates from within the Department to senior executive positions in the Department, including as directors of medical centers.

“(d) SUBMITTAL OF PLAN.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives the plan developed under subsection (a).

“(e) SEMI-ANNUAL REPORTS.—Not later than 180 days after the date of the enactment of this Act, and not later than 180 days thereafter, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report containing a list of each medical center of the Department that lacks a permanent director as of the date of the report.”

#### LICENSED HEARING AID SPECIALISTS APPOINTMENT AND SERVICES

Pub. L. 114-256, §4(b), (c), Dec. 14, 2016, 130 Stat. 1347, 1348, provided that:

“(b) REQUIREMENTS.—With respect to appointing hearing aid specialists under sections 7401 and 7402 of title 38, United States Code, as amended by subsection (a), and providing services furnished by such specialists, the Secretary [of Veterans Affairs] shall ensure that—

“(1) a hearing aid specialist may only perform hearing services consistent with the hearing aid specialist's State license related to the practice of fitting and dispensing hearing aids without excluding other qualified professionals, including audiologists, from rendering services in overlapping practice areas;

“(2) services provided to veterans by hearing aid specialists shall be provided as part of the non-medical treatment plan developed by an audiologist; and

“(3) the medical facilities of the Department of Veterans Affairs provide to veterans access to the full range of professional services provided by an audiologist.

“(c) CONSULTATION.—In determining the qualifications required for hearing aid specialists and in carrying out subsection (b), the Secretary shall consult with veterans service organizations, audiologists, otolaryngologists, hearing aid specialists, and other stakeholder and industry groups as the Secretary determines appropriate.”

#### PRIOR APPOINTMENTS OF CERTAIN PERSONNEL

Pub. L. 108-170, title III, §301(a)(2), Dec. 6, 2003, 117 Stat. 2055, provided that: “Personnel appointed to the Veterans Health Administration before the date of the enactment of this Act [Dec. 6, 2003] who are in an occupational category of employees specified in paragraph (3) of section 7401 of title 38, United States Code, by reason of the amendment made by paragraph (1)(B) of this subsection [amending this section] shall, as of such date, be deemed to have been appointed to the Administration under such paragraph (3).”

#### § 7402. Qualifications of appointees

(a) To be eligible for appointment to the positions in the Administration covered by subsection (b), a person must have the applicable qualifications set forth in that subsection.

(b)(1) PHYSICIAN.—To be eligible to be appointed to a physician position, a person must—

(A) hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Secretary,

(B) have completed an internship satisfactory to the Secretary, and

(C) be licensed to practice medicine, surgery, or osteopathy in a State.

(2) DENTIST.—To be eligible to be appointed to a dentist position, a person must—

(A) hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Secretary, and

(B) be licensed to practice dentistry in a State.

(3) NURSE.—To be eligible to be appointed to a nurse position, a person must—

(A) have successfully completed a full course of nursing in a recognized school of nursing, approved by the Secretary, and

(B) be registered as a graduate nurse in a State.

(4) DIRECTOR OF A HOSPITAL, DOMICILIARY, CENTER, OR OUTPATIENT CLINIC.—To be eligible to be appointed to a director position, a person must have such business and administrative experience and qualifications as the Secretary shall prescribe.

(5) PODIATRIST.—To be eligible to be appointed to a podiatrist position, a person must—

(A) hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Secretary, and

(B) be licensed to practice podiatry in a State.

(6) OPTOMETRIST.—To be eligible to be appointed to an optometrist position, a person must—

(A) hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Secretary, and

(B) be licensed to practice optometry in a State.

(7) PHARMACIST.—To be eligible to be appointed to a pharmacist position, a person must—

(A) hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Secretary, and

(B) be registered as a pharmacist in a State.

(8) PSYCHOLOGIST.—To be eligible to be appointed to a psychologist position, a person must—

(A) hold a doctoral degree in psychology from a college or university approved by the Secretary,

(B) have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Secretary, and

(C) be licensed or certified as a psychologist in a State, except that the Secretary may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that that psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified.

(9) SOCIAL WORKER.—To be eligible to be appointed to a social worker position, a person must—