

108TH CONGRESS
2D SESSION

S. 2484

AN ACT

To amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Vet-
5 erans Affairs Health Care Personnel Enhancement Act of
6 2004”.

1 **SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

2 Except as otherwise expressly provided, whenever in
3 this Act an amendment is expressed in terms of an amend-
4 ment to a section or other provision, the reference shall
5 be considered to be made to a section or other provision
6 of title 38, United States Code.

7 **SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE**
8 **AND PAY PROVISIONS FOR PHYSICIANS AND**
9 **DENTISTS.**

10 (a) SIMPLIFICATION OF GRADES AND GRADE RE-
11 QUIREMENTS.—(1) Subsection (b) of section 7404 is
12 amended—

13 (A) by striking “(1)” after “(b)”;

14 (B) in the Physician and Dentist Schedule, by
15 striking the items relating to the grades and insert-
16 ing the following:

17 “Physician grade.

18 “Dentist grade.”; and

19 (C) by striking paragraph (2).

20 (2) Subsection (a) of such section is amended by add-
21 ing at the end the following: “The pay of physicians and
22 dentists serving in positions to which an Executive order
23 applies under the preceding sentence shall be determined
24 under subchapter III of this chapter instead of such Exec-
25 utive order.”.

1 (b) SIMPLIFICATION AND IMPROVEMENT OF PAY AU-
 2 THORITIES.—Subchapter III of chapter 74 is amended to
 3 read as follows:

4 “SUBCHAPTER III—PAY FOR PHYSICIANS AND
 5 DENTISTS

6 “§ 7431. Pay

7 “(a) ELEMENTS OF PAY.—Pay of physicians and
 8 dentists in the Veterans Health Administration shall con-
 9 sist of three elements as follows:

10 “(1) Base pay as provided for under subsection
 11 (b).

12 “(2) Market pay as provided for under sub-
 13 section (c).

14 “(3) Performance pay as provided under sub-
 15 section (d).

16 “(b) BASE PAY.—One element of pay for physicians
 17 and dentists shall be base pay. Base pay shall meet the
 18 following requirements:

19 “(1) Each physician and dentist is entitled to
 20 base pay determined under the Physician and Den-
 21 tist Base and Longevity Pay Schedule.

22 “(2) The Physician and Dentist Base and Lon-
 23 gevity Pay Schedule is composed of 15 rates of base
 24 pay designated, from the lowest rate of pay to the
 25 highest rate of pay, as base pay steps 1 through 15.

1 “(3) The rate of base pay payable to a physi-
 2 cian or dentist is based on the total number of the
 3 years of the service of the physician or dentist in the
 4 Veterans Health Administration as follows:

“For a physician or dentist with total service of:	The rate of base pay is the rate payable for:
two years or less	step 1
more than 2 years and not more than 4 years	step 2
more than 4 years and not more than 6 years	step 3
more than 6 years and not more than 8 years	step 4
more than 8 years and not more than 10 years	step 5
more than 10 years and not more than 12 years	step 6
more than 12 years and not more than 14 years	step 7
more than 14 years and not more than 16 years	step 8
more than 16 years and not more than 18 years	step 9
more than 18 years and not more than 20 years	step 10
more than 20 years and not more than 22 years	step 11
more than 22 years and not more than 24 years	step 12
more than 24 years and not more than 26 years	step 13
more than 26 years and not more than 28 years	step 14
more than 28 years	step 15.

5 “(4) At the same time as rates of basic pay are
 6 increased for a year under section 5303 of title 5,
 7 the Secretary shall increase the amount of base pay
 8 payable under this subsection for that year by a per-
 9 centage equal to the percentage by which rates of
 10 basic pay are increased under such section for that
 11 year.

12 “(c) MARKET PAY.—One element of pay for physi-
 13 cians and dentists shall be market pay. Market pay shall
 14 meet the following requirements:

15 “(1) Each physician and dentist is eligible for
 16 market pay.

1 “(2) Market pay shall consist of pay intended
2 to reflect the recruitment and retention needs for
3 the specialty or assignment (as defined by the Sec-
4 retary) of a particular physician or dentist in a facil-
5 ity of the Department of Veterans Affairs.

6 “(3) The annual amount of the market pay
7 payable to a physician or dentist shall be determined
8 by the Secretary on a case-by-case basis.

9 “(4)(A) In determining the amount of market
10 pay for physicians or dentists, the Secretary shall
11 consult two or more national surveys of pay for phy-
12 sicians or dentists, as applicable, whether prepared
13 by private, public, or quasi-public entities in order to
14 make a general assessment of the range of pays pay-
15 able to physicians or dentists, as applicable.

16 “(B)(i) In determining the amount of the mar-
17 ket pay for a particular physician or dentist under
18 this subsection, and in determining a tier (if any) to
19 apply to a physician or dentist under subsection
20 (e)(1)(B), the Secretary shall consult with and con-
21 sider the recommendations of an appropriate panel
22 or board composed of physicians or dentists (as ap-
23 plicable).

24 “(ii) A physician or dentist may not be a mem-
25 ber of the panel or board that makes recommenda-

1 tions under clause (i) with respect to the market pay
 2 of such physician or dentist, as the case may be.

3 “(iii) The Secretary should, to the extent prac-
 4 ticable, ensure that a panel or board consulted under
 5 this subparagraph includes physicians or dentists (as
 6 applicable) who are practicing clinicians and who do
 7 not hold management positions in the medical facil-
 8 ity of the Department at which the physician or den-
 9 tist subject to the consultation is employed.

10 “(5) The determination of the amount of mar-
 11 ket pay of a physician or dentist shall take into
 12 account—

13 “(A) the level of experience of the physi-
 14 cian or dentist in the specialty or assignment of
 15 the physician or dentist;

16 “(B) the need for the specialty or assign-
 17 ment of the physician or dentist at the medical
 18 facility of the Department concerned;

19 “(C) the health care labor market for the
 20 specialty or assignment of the physician or den-
 21 tist, which may cover any geographic area the
 22 Secretary considers appropriate for the spe-
 23 cialty or assignment;

24 “(D) the board certifications, if any, of the
 25 physician or dentist;

1 “(E) the prior experience, if any, of the
 2 physician or dentist as an employee of the Vet-
 3 erans Health Administration; and

4 “(F) such other considerations as the Sec-
 5 retary considers appropriate.

6 “(6) The amount of market pay of a physician
 7 or dentist shall be evaluated by the Secretary not
 8 less often than once every 24 months. The amount
 9 of market pay may be adjusted as the result of an
 10 evaluation under this paragraph. A physician or den-
 11 tist whose market pay is evaluated under this para-
 12 graph shall receive written notice of the results of
 13 such evaluation in accordance with procedures pre-
 14 scribed under section 7433 of this title.

15 “(7) No adjustment of the amount of market
 16 pay of a physician or dentist under paragraph (6)
 17 may result in a reduction of the amount of market
 18 pay of the physician or dentist while in the same po-
 19 sition or assignment at the medical facility of the
 20 Department concerned.

21 “(d) PERFORMANCE PAY.—(1) One element of pay
 22 for physicians and dentists shall be performance pay.

23 “(2) Performance pay shall be paid to a physician
 24 or dentist on the basis of the physician’s or dentist’s

1 achievement of specific goals and performance objectives
2 prescribed by the Secretary.

3 “(3) The Secretary shall ensure that each physician
4 and dentist of the Department is advised of the specific
5 goals or objectives that are to be measured by the Sec-
6 retary in determining the eligibility of that physician or
7 dentist for performance pay.

8 “(4) The amount of the performance pay payable to
9 a physician or dentist may vary annually on the basis of
10 individual achievement or attainment of the goals or objec-
11 tives applicable to the physician or dentist under para-
12 graph (2).

13 “(5) The amount of performance pay payable to a
14 physician or dentist in a fiscal year shall be determined
15 in accordance with regulations prescribed by the Sec-
16 retary, but may not exceed the lower of—

17 “(A) \$15,000; or

18 “(B) the amount equal to 7.5 percent of the
19 sum of the base pay and the market pay payable to
20 such physician or dentist in that fiscal year.

21 “(6) A failure to meet goals or objectives applicable
22 to a physician or dentist under paragraph (2) may not
23 be the sole basis for an adverse personnel action against
24 that physician or dentist.

1 “(e) REQUIREMENTS AND LIMITATIONS ON TOTAL
2 PAY.—(1)(A) Not less often than once every two years,
3 the Secretary shall prescribe for Department-wide applica-
4 bility the minimum and maximum amounts of annual pay
5 that may be paid under this section to physicians and the
6 minimum and maximum amounts of annual pay that may
7 be paid under this section to dentists.

8 “(B) The Secretary may prescribe for Department-
9 wide applicability under this paragraph separate minimum
10 and maximum amounts of pay for a specialty or assign-
11 ment. If the Secretary prescribes separate minimum and
12 maximum amounts for a specialty or assignment, the Sec-
13 retary may establish up to four tiers of minimum and
14 maximum amounts for such specialty or assignment and
15 prescribe for each tier a minimum amount and a max-
16 imum amount that the Secretary determines appropriate
17 for the professional responsibilities, professional achieve-
18 ments, and administrative duties of the physicians or den-
19 tists (as the case may be) whose pay is set within that
20 tier.

21 “(C) Amounts prescribed under this paragraph shall
22 be published in the Federal Register, and shall not take
23 effect until at least 60 days after the date of publication.

24 “(2) Except as provided in paragraph (3) and subject
25 to paragraph (4), the sum of the total amount of the an-

1 nual rate of base pay payable to a physician or dentist
 2 under subsection (b) and the market pay determined for
 3 the physician or dentist under subsection (c) may not be
 4 less than the minimum amount, nor more than the max-
 5 imum amount, applicable to specialty or assignment of the
 6 physician or dentist under paragraph (1).

7 “(3) The sum of the total amount of the annual rate
 8 of base pay payable to a physician or dentist under sub-
 9 section (b) and the market pay determined for the physi-
 10 cian or dentist under subsection (c) may exceed the max-
 11 imum amount applicable to the specialty or assignment
 12 of the physician or dentist under paragraph (1) as a result
 13 of an adjustment under paragraph (3) or (4) of subsection
 14 (b).

15 “(4) In no case may the total amount of compensa-
 16 tion paid to a physician or dentist under this title in any
 17 year exceed the amount of annual compensation (exclud-
 18 ing expenses) specified in section 102 of title 3.

19 “(f) TREATMENT OF PAY.—Pay under subsections
 20 (b) and (c) of this section shall be considered pay for all
 21 purposes, including retirement benefits under chapters 83
 22 and 84 of title 5 and other benefits.

23 “(g) ANCILLARY EFFECTS OF DECREASES IN PAY.—
 24 (1) A decrease in pay of a physician or dentist resulting
 25 from an adjustment in the amount of market pay of the

1 physician or dentist under subsection (c) shall not be
2 treated as an adverse action.

3 “(2) If the pay of a physician or dentist is reduced
4 under this subchapter as a result of an involuntary reas-
5 signment in connection with a disciplinary action taken
6 against the physician or dentist, the involuntary reassign-
7 ment shall be subject to appeal under subchapter V of this
8 chapter.

9 “(h) DELEGATION OF RESPONSIBILITIES.—The Sec-
10 retary may delegate to an appropriate officer or employee
11 of the Department any responsibility of the Secretary
12 under subsection (c), (d), or (e) except for the responsibil-
13 ities of the Secretary under subsection (e)(1).

14 **“§ 7432. Pay of Under Secretary for Health**

15 “(a) BASE PAY.—The base pay of the Under Sec-
16 retary for Health shall be the annual rate of basic pay
17 for positions at Level III of the Executive Schedule under
18 section 5314 of title 5.

19 “(b) MARKET PAY.—(1) In the case of an Under Sec-
20 retary for Health who is also a physician or dentist, in
21 addition to the base pay specified in subsection (a) the
22 Under Secretary for Health may also be paid the market
23 pay element of pay of physicians and dentists under sec-
24 tion 7431(c) of this title.

1 “(2) The amount of market pay of the Under Sec-
 2 retary for Health under this subsection shall be estab-
 3 lished by the Secretary.

4 “(3) In establishing the amount of market pay of the
 5 Under Secretary for Health under this subsection, the
 6 Secretary shall utilize an appropriate health care labor
 7 market selected by the Secretary for purposes of this sub-
 8 section.

9 “(c) TREATMENT OF PAY.—Pay under this section
 10 shall be considered pay for all purposes, including retire-
 11 ment benefits under chapters 83 and 84 of title 5 and
 12 other benefits.

13 **“§ 7433. Administrative matters**

14 “(a) REGULATIONS.—(1) The Secretary shall pre-
 15 scribe regulations relating to the pay of physicians and
 16 dentists in the Veterans Health Administration under this
 17 subchapter.

18 “(2) In prescribing the regulations, the Secretary
 19 shall take into account the recommendations of the Under
 20 Secretary for Health on the administration of this sub-
 21 chapter. In formulating recommendations for the purpose
 22 of this paragraph, the Under Secretary shall request the
 23 views of representatives of labor organizations that are ex-
 24 clusive representatives of physicians and dentists of the
 25 Department and the views of representatives of profes-

1 sional organizations of physicians and dentists of the De-
 2 partment.

3 “(b) REPORTS.—(1) Not later than 18 months after
 4 the Secretary prescribes the regulations required by sub-
 5 section (a), and annually thereafter for the next 5 years,
 6 the Secretary shall submit to the Committees on Veterans’
 7 Affairs of the Senate and House of Representatives a re-
 8 port on the pay of physicians and dentists in the Veterans
 9 Health Administration under this subchapter.

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

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

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

20 “(C) The number of unfilled physician positions
 21 and dentist positions in each specialty in the Vet-
 22 erans Health Administration, the average and max-
 23 imum lengths of time that such positions have been
 24 unfilled, and an assessment of the reasons that such
 25 positions remain unfilled.

1 “(D) An assessment of the impact of implemen-
 2 tation of this subchapter on efforts to recruit and re-
 3 tain physicians and dentists in the Veterans Health
 4 Administration.

5 “(3) The first two annual reports under this sub-
 6 section shall also include a comparison of staffing levels,
 7 contract expenditures, and average salaries of physicians
 8 and dentists in the Veterans Health Administration for
 9 the current fiscal year and for the fiscal year preceding
 10 the current fiscal year, set forth by facility and by spe-
 11 cialty.”.

12 (c) INITIAL RATES OF BASE PAY FOR PHYSICIANS
 13 AND DENTISTS.—The initial rates of base pay established
 14 for the base pay steps under the Physician and Dentist
 15 Base and Longevity Pay Schedule provided in section
 16 7431(b) of title 38, United States Code (as added by sub-
 17 section (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.

1 (d) EFFECTIVE DATE.—(1) Notwithstanding the 60-
 2 day waiting requirement in section 7431(e)(1)(C) of title
 3 38, United States Code (as amended by subsection (b)),
 4 pay provided for a physician or dentist under subchapter
 5 III of chapter 74 of such title, as amended by subsection
 6 (b), shall take effect on the first day of the first pay period
 7 applicable to such physician or dentist that begins on or
 8 after January 1, 2006.

9 (2) Pay provided for the Under Secretary for Health
 10 under subchapter III of chapter 74 of title 38, United
 11 States Code, as amended by this section shall take effect
 12 on the first day of the first pay period applicable to the
 13 Under Secretary that begins on or after January 1, 2006.

14 (e) TRANSITION PROVISIONS.—

15 (1) PHYSICIANS AND DENTISTS.—

16 (A) PAY.—(i) The amount of the pay pay-
 17 able on and after the date of the enactment of
 18 this Act to a physician or dentist in receipt of
 19 pay under section 7404 or 7405 of title 38,
 20 United States Code, as of the day before such
 21 date shall continue to be determined under such
 22 section (as in effect on the day before such
 23 date) until the effective date that is applicable
 24 under subsection (d) to such physician or den-
 25 tist, as the case may be.

(ii) A physician or dentist appointed or re-assigned on or after the date of the enactment of this Act, but before the effective date applicable under subsection (d) to such physician or dentist, shall be compensated in accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until such effective date.

(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to such physician or dentist.

(ii) A physician or dentist described in subparagraph (A)(ii) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States

Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of the appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date applicable under subsection (d) to such physician or dentist. However, no special pay agreement shall be required for the payment of special pay under this clause.

(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) to a physician or dentist during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to such physician or dentist 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).

(ii) Special pay paid to a physician or dentist under section 7438 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), shall be fully creditable for purposes of computing benefits

1 under chapters 83 and 84 of title 5, United
2 States Code.

3 (D) PRESERVATION OF PAY.—The amount
4 of pay paid to a physician or dentist after the
5 effective date of this Act shall not be less than
6 the amount of pay paid to such physician or
7 dentist on the day before the effective date of
8 this Act while such physician or dentist remains
9 in the same position or assignment.

10 (2) UNDER SECRETARY FOR HEALTH.—

11 (A) SPECIAL PAY.—(i) The current special
12 pay agreement entered into by the Under Sec-
13 retary for Health under subchapters I and III
14 of chapter 74 of title 38, United States Code,
15 before the date of the enactment of this Act
16 shall terminate on the date of the enactment of
17 this Act. However, the Under Secretary shall
18 continue to receive special pay under the terms
19 of such agreement until the effective date that
20 is applicable under subsection (d) to the Under
21 Secretary.

22 (ii) An individual appointed as Under Sec-
23 retary for Health on or after the date of the en-
24 actment of this Act and before the effective
25 date applicable under subsection (d) to the

Under Secretary shall be paid special pay in accordance with the provisions of sections 7432(d)(2) and 7433 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on such effective date. However, no special pay agreement shall be required for the payment of special pay under this clause.

(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) during the period beginning 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.

(f) CONFORMING AMENDMENTS.—Section 7404 is amended—

1 (1) in subsection (c), by striking “special pay”
 2 and inserting “pay”; and

3 (2) in subsection (d), by striking “pay may not
 4 be paid” and all that follows and inserting “pay for
 5 positions for which basic pay is paid under this sec-
 6 tion may not be paid at a rate in excess of the rate
 7 of basic pay authorized by section 5316 of title 5 for
 8 positions in Level V of the Executive Schedule.”.

9 (g) CLERICAL AMENDMENT.—The table of sections
 10 at the beginning of chapter 74 is amended by striking the
 11 items relating to subchapter III and inserting the fol-
 12 lowing new items:

“SUBCHAPTER III—PAY FOR PHYSICIANS AND DEN-
 TISTS

“Sec. 7431. Pay.

“Sec. 7432. Pay of Under Secretary for Health.

“Sec. 7433. Administrative matters.”.

13 **SEC. 4. ALTERNATE WORK SCHEDULES FOR REGISTERED**
 14 **NURSES.**

15 (a) IN GENERAL.—(1) Chapter 74 is amended by in-
 16 serting after section 7456 the following new section:

17 **“§ 7456A. Nurses: alternate work schedules**

18 “(a) APPLICABILITY.—This section applies to reg-
 19 istered nurses appointed under this chapter.

20 “(b) 36/40 WORK SCHEDULE.—(1)(A) Subject to
 21 paragraph (2), if the Secretary determines it to be nec-
 22 essary in order to obtain or retain the services of reg-
 23 istered nurses at any Department health-care facility, the

1 Secretary may provide, in the case of nurses employed at
2 such facility, that such nurses who work three regularly
3 scheduled 12-hour tours of duty within a work week shall
4 be considered for all purposes to have worked a full 40-
5 hour basic work week.

6 “(B) A nurse who works under the authority in sub-
7 paragraph (A) shall be considered a 0.90 full-time equiva-
8 lent employee in computing full-time equivalent employees
9 for the purposes of determining compliance with personnel
10 ceilings.

11 “(2)(A) Basic and additional pay for a nurse who is
12 considered under paragraph (1) to have worked a full 40-
13 hour basic work week shall be subject to subparagraphs
14 (B) and (C).

15 “(B) The hourly rate of basic pay for a nurse covered
16 by this paragraph for service performed as part of a regu-
17 larly scheduled 36-hour tour of duty within the work week
18 shall be derived by dividing the nurse’s annual rate of
19 basic pay by 1,872.

20 “(C) The Secretary shall pay overtime pay to a nurse
21 covered by this paragraph who—

22 “(i) performs a period of service in excess of
23 such nurse’s regularly scheduled 36-hour tour of
24 duty within an administrative work week;

1 “(ii) for officially ordered or approved service,
 2 performs a period of service in excess of 8 hours on
 3 a day other than a day on which such nurse’s regu-
 4 larly scheduled 12-hour tour of duty falls;

5 “(iii) performs a period of service in excess of
 6 12 hours for any day included in the regularly
 7 scheduled 36-hour tour of duty work week; or

8 “(iv) performs a period of service in excess of
 9 40 hours during an administrative work week.

10 “(D) The Secretary may provide a nurse to whom
 11 this subsection applies with additional pay under section
 12 7453 of this title for any period included in a regularly
 13 scheduled 12-hour tour of duty.

14 “(3) A nurse who works a work schedule described
 15 in this subsection who is absent on approved sick leave
 16 or annual leave during a regularly scheduled 12-hour tour
 17 of duty shall be charged for such leave at a rate of ten
 18 hours of leave for every nine hours of absence.

19 “(c) HOLIDAY PAY.—A nurse working a work sched-
 20 ule under subsection (b) that includes a holiday designated
 21 by law or Executive order shall be eligible for holiday pay
 22 under section 7453(d) of this title for any service per-
 23 formed by the nurse on such holiday under such section.

24 “(d) 9-MONTH WORK SCHEDULE FOR CERTAIN
 25 NURSES.—(1) The Secretary may authorize a registered

1 nurse appointed under section 7405 of this title, with the
 2 nurse’s written consent, to work full time for nine months
 3 with 3 months off duty, within a fiscal year, and be paid
 4 at 75 percent of the full-time rate for such nurse’s grade
 5 for each pay period of such fiscal year.

6 “(2) A nurse who works under the authority in para-
 7 graph (1) shall be considered a 0.75 full-time equivalent
 8 employee in computing full-time equivalent employees for
 9 the purposes of determining compliance with personnel
 10 ceilings.

11 “(3) Work under this subsection shall be considered
 12 part-time service for purposes of computing benefits under
 13 chapters 83 and 84 of title 5.

14 “(4) A nurse who works under the authority in para-
 15 graph (1) shall be considered a full-time employee for pur-
 16 poses of chapter 89 of title 5.

17 “(e) NOTIFICATION OF MODIFICATION OF BENE-
 18 FITS.—The Secretary shall provide each employee with re-
 19 spect to whom an alternate work schedule under this sec-
 20 tion may apply written notice of the effect, if any, that
 21 the alternate work schedule will have on the employee’s
 22 health care premium, retirement, life insurance premium,
 23 probationary status, or other benefit or condition of em-
 24 ployment. The notice shall be provided not later than 14

1 days before the employee consents to the alternate work
2 schedule.

3 “(f) REGULATIONS.—The Secretary shall prescribe
4 regulations to carry out this section.”.

5 (2) The table of sections at the beginning of chapter
6 74 is amended by inserting after the item relating to sec-
7 tion 7456 the following new item:

“Sec. 7456A. Nurses: alternate work schedules.”.

8 (b) POLICY AGAINST CERTAIN WORK HOURS.—(1)
9 It is the sense of Congress to encourage the Secretary of
10 Veterans Affairs to prevent work hours by nurses pro-
11 viding direct patient care in excess of 12 consecutive hours
12 or in excess of 60 hours in any 7-day period, except in
13 the case of nurses providing emergency care.

14 (2) Not later than one year after the date of the en-
15 actment of this Act and every year thereafter for the next
16 two years, the Secretary shall certify to Congress whether
17 or not each Veterans Health Administration facility has
18 in place, as of the date of such certification, a policy de-
19 signed to prevent work hours by nurses providing direct
20 patient care (other than nurses providing emergency care)
21 in excess of 12 consecutive hours or in excess of 60 hours
22 in any 7-day period.

23 **SEC. 5. NURSE EXECUTIVE SPECIAL PAY.**

24 Section 7452 is amended by adding at the end the
25 following new subsection:

1 “(g)(1) In order to recruit and retain highly qualified
2 Department nurse executives, the Secretary may, in ac-
3 cordance with regulations prescribed by the Secretary, pay
4 special pay to the nurse executive at each location as fol-
5 lows:

6 “(A) Each Department health care facility.

7 “(B) The Central Office.

8 “(2) The amount of special pay paid to a nurse execu-
9 tive under paragraph (1) shall be not less than \$10,000
10 or more than \$25,000.

11 “(3) The amount of special pay paid to a nurse execu-
12 tive under paragraph (1) shall be based on factors such
13 as the grade of the nurse executive position, the scope and
14 complexity of the nurse executive position, the personal
15 qualifications of the nurse executive, the characteristics of
16 the health care facility concerned, the nature and number
17 of specialty care units at the health care facility concerned,
18 demonstrated difficulties in recruitment and retention of
19 nurse executives at the health care facility concerned, and
20 such other factors as the Secretary considers appropriate.

21 “(4) Special pay paid to a nurse executive under
22 paragraph (1) shall be in addition to any other pay (in-
23 cluding basic pay) and allowances to which the nurse exec-
24 utive is entitled, and shall be considered pay for all pur-
25 poses, including retirement benefits under chapters 83 and

1 84 of title 5, and other benefits, but shall not be consid-
2 ered basic pay for purposes of adverse actions under sub-
3 chapter V of this chapter.”.

Passed the Senate October 5, 2004.

Attest:

Secretary.

108TH CONGRESS
2D SESSION

S. 2484

AN ACT

To amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.