

Calendar No. 713

108TH CONGRESS
2D SESSION

S. 2484

[Report No. 108–357]

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

IN THE SENATE OF THE UNITED STATES

JUNE 1, 2004

Mr. SPECTER (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

SEPTEMBER 23, 2004

Reported by Mr. SPECTER, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

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

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Department of Vet-
3 erans Affairs Health Care Personnel Enhancement Act of
4 2003”.

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

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

11 **SEC. 3. IMPROVEMENT AND SIMPLIFICATION OF PAY PRO-**
12 **VISIONS FOR PHYSICIANS AND DENTISTS.**

13 (a) Chapter 74 is amended—

14 (1) In section 7404b—

15 (A) by striking “(1)” after “(b)”;

16 (B) by striking the list of position grades
17 under the caption, “PHYSICIAN AND DENTIST
18 SCHEDULE” and inserting in lieu thereof the
19 following:

20 “Physician grade.

21 Dentist grade.”; and

22 (C) by striking paragraph (2) in its en-
23 tirety;

24 (2) In section 7404(c) by striking “special”;

25 and

(3) By striking Subchapter III in its entirety
and inserting in lieu thereof the following sections:

~~“SUBCHAPTER III—PAY FOR PHYSICIANS AND~~

~~DENTISTS~~

5 ~~“§ 7431. Pay authority~~

6 “(a) In order to recruit and retain highly qualified
7 physicians and dentists in the Veterans Health Adminis-
8 tration, the Secretary shall establish and periodically ad-
9 just the rates of pay for physicians and dentists based
10 upon the factors specified in subsection (b). Total pay
11 shall be benchmarked to representative salaries of non-De-
12 partment physicians, dentists, and health care clinician-
13 executives.

14 “(b) Pay for physicians and dentists employed in the
15 Veterans Health Administration shall have three compo-
16 nents:

“(1) **BASE PAY.**—This shall be a uniform pay band applicable nationwide. The minimum rate shall be the maximum rate for Chief grade in the Veterans Health Administration Physician and Dentist Pay Schedule in effect on the day before the date of enactment of this Act. The maximum rate may not exceed the rate of basic pay authorized by section 5316 of title 5 for Level V of the Executive Schedule. The Secretary shall adjust annually the min-

imum rate by the same percentage as the adjustment under section 5303 of title 5 in the rates of pay for the General Schedule; and the maximum rate in accordance with section 5318 of title 5. Administration facilities, under regulations prescribed by the Secretary, may set individual base pay anywhere within the pay band.

“(2) MARKET PAY.—This shall be a variable pay band based on geographic area, specialty, assignment, personal qualifications, and individual experience, and shall be established and adjusted locally in accordance with regulations prescribed under subsection (c). Administration facilities will set individual market pay in accordance with regulations prescribed by the Secretary. The Under Secretary for Health shall periodically review and recommend to the Secretary adjustments to the market pay band based on published healthcare workforce employment and compensation data. The Secretary may adjust the market pay band periodically based on the recommendations of the Under Secretary and in response to changing health-care labor trends.

“(3) PERFORMANCE PAY.—

“(A) There shall be a variable pay band linked to the physician’s or dentist’s achieve-

ment of specific corporate goals and individual performance objectives. Physicians and dentists other than those specified in subsection (f)(1) shall not be eligible for this component during the first year of appointment. The amount payable to a physician or dentist for this component may vary based on individual achievement. The performance component paid to any physician or dentist other than those specified in subsection (f)(1) will be in accordance with regulations prescribed by the Secretary and may not exceed \$10,000 in a year.

“(B) In accordance with regulations prescribed by the Secretary, ten percent of the benchmark total pay for physicians and dentists specified in subsection (f)(1) shall be linked to the physician’s or dentist’s achievement of specific corporate goals and individual performance objectives as a performance component. Administration facilities may set the performance pay in accordance with regulations prescribed by the Secretary.

“(e) Compensation paid under this subchapter shall be considered pay for all purposes, included but not limited to retirement benefits under chapters 83 and 84 of

1 title 5, United States Code, and other benefits. Notwith-
 2 standing the preceding sentence, amounts paid for per-
 3 formance pay under subsection (b)(3)(A) shall not be con-
 4 sidered pay for retirement benefits under chapters 83 and
 5 84 of title 5, United States Code.

6 “(d) Any decrease in pay that results from an adjust-
 7 ment to the market or performance component of a physi-
 8 cian’s or dentist’s total compensation does not constitute
 9 an adverse action.

10 “(e) In no case may the total amount of compensa-
 11 tion paid to a physician or dentist under this title in any
 12 one year exceed the amount of annual compensation (ex-
 13 cluding expenses) specified in section 102 of title 3, United
 14 States Code.

15 “(f) COVERED POSITIONS.—

16 “(1) This subsection applies to physicians and
 17 dentists in the following positions: Chiefs of Staff or
 18 equivalent facility-level and Network-level clinical
 19 management positions (including Network Clinical
 20 Service Managers), facility and Network or Regional
 21 executive positions (including Network Service Line
 22 Coordinators and Medical Center/Health Care Sys-
 23 tem Directors), Central Office executive positions,
 24 and such other positions under this title as the Sec-

1 retary may determine in accordance with regulations
2 prescribed in accordance with section 7434(a).

3 ~~“(2) Notwithstanding the special relationships~~
4 ~~of the Veterans Health Administration with affili-~~
5 ~~ated institutions under section 7302, physicians and~~
6 ~~dentists serving in covered positions and receiving~~
7 ~~compensation under this subchapter may not receive~~
8 ~~any compensation on or after the date specified in~~
9 ~~regulations issued by the Secretary, through employ-~~
10 ~~ment or contract with, or negotiate or accept any~~
11 ~~offer of employment from, any institution or other~~
12 ~~entity that is affiliated with the VA medical center~~
13 ~~to which they are assigned, or affiliated with a VA~~
14 ~~medical center which falls under their official re-~~
15 ~~sponsibilities. This limitation shall include receiving~~
16 ~~compensation through or from practice groups or~~
17 ~~any other entities associated with the affiliated insti-~~
18 ~~tution(s), or from entities under contract with the~~
19 ~~affiliated institution(s). Compensation includes any-~~
20 ~~thing of monetary value, including but not limited to~~
21 ~~honoraria, salary, and any fringe benefits such as:~~
22 ~~tuition waiver, insurance protection, contributions to~~
23 ~~a retirement fund, payment for books, below-market~~
24 ~~interest loans, or employee discounts. Nothing in~~
25 ~~this section precludes physicians and dentists in cov-~~

1 ered positions from holding uncompensated appoint-
 2 ments as other than officer, director, or trustee with
 3 affiliated institutions in furtherance of section 7302.

4 “(3) Subject to any conditions the Secretary
 5 may be regulation prescribe, the Secretary may, on
 6 a case-by-case basis, suspend or waive the limitation
 7 in paragraph (2) to an individual physician or den-
 8 tist, when necessary and appropriate to carry out
 9 the purposes of section 7302, to assist communities
 10 or practice groups to meet medical needs which oth-
 11 erwise would not be met, or where the Secretary de-
 12 termines that suspension or waiver would be in the
 13 best interest of the United States. The Secretary
 14 shall make any suspension or wavier made pursuant
 15 to this paragraph in writing.

16 **“§ 7432. Transition to new pay system**

17 “(a) All current special pay agreements entered into
 18 under the provisions of this subchapter in effect on the
 19 day before the date of enactment of this Act shall termi-
 20 nate on the date of enactment of this Act. Any physician
 21 or dentist in receipt of special pay on that date shall con-
 22 tinue to be compensated as if such agreement were still
 23 in effect until the date specified in regulations issued by
 24 the Secretary implementing this new subchapter.

1 “(b) Physicians and dentists appointed or reassigned
2 on or after the date of enactment of this Act, but before
3 implementation of this subchapter shall be compensated
4 in accordance with sections 7404, 7405, 7433, 7434,
5 7435, and 7436, as applicable, in effect on the day before
6 the date of enactment of this Act. Any such physician or
7 dentist shall continue to be compensated at the applicable
8 rates until such date specified in regulations issued by the
9 Secretary implementing the new pay system. No special
10 pay agreement will be required of any physician or dentist
11 receiving such pay.

12 “(c) During the period from the date of enactment
13 of this Act through the date of implementation of this sub-
14 chapter, physicians and dentists paid pursuant to this sec-
15 tion shall be subject to paragraphs (1), (2), (4), (5), and
16 (6) of subsection (b) of section 7438 in effect on the day
17 before the date of enactment of this Act.

18 “(d) The amount of pay paid under this subchapter
19 for a physician or dentist appointed before the effective
20 date of regulations implementing this subchapter shall be
21 not less than the amount of base pay and special pay such
22 physician or dentist received under this title on the day
23 before such effective date.

24 “(e) Special pay subject to the provisions of section
25 7438, as in effect before the date of enactment of this

1 section, or subject to subsection (c), paid to Veterans
 2 Health Administration physicians and dentists appointed
 3 before the effective date of regulations implementing this
 4 subchapter and who separate after such effective date,
 5 shall be fully creditable for purposes of computing benefits
 6 under chapters 83 and 84 of title 5.

7 **“§ 7433. Pay for Under Secretary for Health**

8 “(a) Section 5314 of title 5 establishes the base pay
 9 for the Under Secretary for Health at Level III of the
 10 Executive Schedule.

11 “(b) In addition to base pay under section 5314 of
 12 title 5, the Under Secretary for Health shall be eligible
 13 for Market Pay under section 7431(b)(2).

14 “(c) TRANSITION.—The current special pay agree-
 15 ment of the Under Secretary for Health entered into
 16 under the provisions of this subchapter in effect on the
 17 day before the date of enactment of this Act shall termi-
 18 nate on the date of enactment of this Act. The incumbent
 19 Under Secretary for Health on the date of enactment of
 20 this Act shall continue to receive special pay as if such
 21 agreement were still in effect until the date specified in
 22 regulations issued by the Secretary implementing this new
 23 subchapter. Any Under Secretary for Health appointed on
 24 or after the date of enactment of this Act, but before the
 25 date specified in regulations issued by the Secretary imple-

1 menting this new subchapter, shall receive special pay in
 2 accordance with sections 7432(d)(2), 7433, and 7437(a)
 3 in effect on the day before the date of enactment of this
 4 Act.

5 **“§ 7434. Administrative provisions**

6 “(a) After receiving the recommendations of the
 7 Under Secretary for Health, the Secretary, pursuant to
 8 the authority in section 7421(a), shall prescribe regula-
 9 tions implementing the physician and dentist pay system
 10 established in this new subchapter. Such regulations shall
 11 include the method for computing the pay for all physi-
 12 cians and dentists in the Veterans Health Administration
 13 under this title.

14 “(b) Eighteen months after the Secretary issues reg-
 15 ulations implementing this subchapter and annually there-
 16 after for the next ten years, the Secretary shall provide
 17 to the Committees on Veterans’ Affairs of the Senate and
 18 House of Representatives a report on the implementation
 19 of the authorities under this subchapter. Each report shall
 20 include:

21 “(1) a description of the rates of pay in effect
 22 during the preceding fiscal year with a comparison
 23 to the rates in effect during the previous fiscal year
 24 by facility and by specialty;

1 “(2) the number of physicians and dentists who
2 left employment with the Veterans Health Adminis-
3 tration during the preceding year;

4 “(3) the number of unfilled physician and den-
5 tist positions in each specialty in the Veterans
6 Health Administration, the average and maximum
7 lengths of time that such positions have been un-
8 filled, and a summary of the reasons that such posi-
9 tions remain unfilled; and

10 “(4) an assessment of the impact of implemen-
11 tation of this subchapter on efforts to recruit and re-
12 tain physicians and dentists in the Veterans Health
13 Administration.

14 In addition, the first two reports following implementation
15 of this subchapter shall also include a comparison of staff-
16 ing levels, contract expenditures, and average salary of
17 physicians and dentists by facility and specialty for the
18 preceding and previous fiscal years.”.

19 (b) The title and list of sections for Subchapter III
20 in the table of sections at the beginning of Chapter 74
21 is amended to read as follows:

“SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

“Sec. 7431. Pay authority.

“Sec. 7432. Transition to new pay system.

“Sec. 7433. Pay for Under Secretary for Health.

“Sec. 7434. Administrative provisions.”.

1 **SEC. 4. ALTERNATE WORK SCHEDULES.**

2 (a) Chapter 74 is amended by adding a new section
3 7456a:

4 **“§ 7456a. Alternate work schedules**

5 **“(a) COVERAGE.—**This section applies to registered
6 nurses appointed under this chapter.

7 **“(b) 36/40 WORK SCHEDULE.—**

8 **“(1)** Subject to paragraph (2), if the Secretary
9 determines it be necessary in order to obtain or re-
10 tain the services of registered nurses at any Depart-
11 ment health-care facility, the Secretary may provide,
12 in the case of nurses employed at such facility, that
13 such nurses who work three regularly scheduled 12-
14 hour tours of duty within a workweek shall be con-
15 sidered for all purposes (except computation of full-
16 time equivalent employees for the purposes of deter-
17 mining compliance with personnel ceilings) to have
18 worked a full 40-hour basic workweek.

19 **“(2)(A)** Basic and additional pay for a reg-
20 istered nurse who is considered under paragraph (1)
21 to have worked a full 40-hour basic workweek shall
22 be subject to subparagraphs (B) and (C).

23 **“(B)** The hourly rate of basic pay for such a
24 nurse for service performed as part of a regularly
25 scheduled 36-hour tour of duty within the workweek

1 shall be derived by dividing the nurse's annual rate
2 of basic pay by 1,872.

3 ~~“(C)(i) Such a nurse who performs a period of~~
4 ~~service in excess of such nurse's regularly scheduled~~
5 ~~36-hour tour of duty within a workweek is entitled~~
6 ~~to overtime pay under section 7453(e) of this title,~~
7 ~~or other applicable law, for officially ordered or ap-~~
8 ~~proved service performed in excess of eight hours on~~
9 ~~a day other than a day on which such nurse's regu-~~
10 ~~larly scheduled three 12-hour tours fall, or in excess~~
11 ~~of 12 hours for any day included in the regularly~~
12 ~~scheduled 36-hour tour of duty, or in excess of 40~~
13 ~~hours during an administrative workweek.~~

14 ~~“(ii) Except as provided in subparagraph (i), a~~
15 ~~registered nurse to whom this subsection is applica-~~
16 ~~ble is not entitled to additional pay under section~~
17 ~~7453 of this title, or other applicable law, for any~~
18 ~~period included in a regularly scheduled 12-hour~~
19 ~~tour of duty.~~

20 ~~“(3) A nurse who works a 36/40 work schedule~~
21 ~~described in this subsection who is absent on ap-~~
22 ~~proved sick leave or annual leave during a regularly~~
23 ~~scheduled 12-hour tour of duty shall be charged for~~
24 ~~such leave at a rate of ten hours of leave for nine~~
25 ~~hours of absence.~~

1 “(c) 7/7 WORK SCHEDULE.—

2 “(1) Subject to paragraph (2), if the Secretary
3 determines it be necessary in order to obtain or re-
4 tain the services of registered nurses at any Depart-
5 ment health-care facility, the Secretary may provide,
6 in the case of nurses employed at such facility, that
7 such nurses who work seven regularly scheduled 10-
8 hour tours of duty, with seven days off duty, within
9 a two-week pay period, shall be considered for all
10 purposes (except computation of full-time equivalent
11 employees for the purposes of determining compli-
12 ance with personnel ceilings) to have worked a full
13 80 hours for the pay period.

14 “(2)(A) Basic and additional pay for a reg-
15 istered nurse who is considered under paragraph (1)
16 to have worked a full 80-hour pay period shall be
17 subject to subparagraphs (B) and (C).

18 “(B) The hourly rate of basic pay for such a
19 nurse for service performed as part of a regularly
20 scheduled 70-hour tour of duty within the pay period
21 shall be derived by dividing the nurse’s annual rate
22 of basic pay by 1,820.

23 “(C)(i) Such a nurse who performs a period of
24 service in excess of such nurse’s regularly scheduled
25 70-hour tour of duty within a pay period is entitled

1 to overtime pay under section 7453(e) of this title;
2 or other applicable law, for officially ordered or ap-
3 proved service performed in excess of eight hours on
4 a day other than a day on which such nurse's regu-
5 larly scheduled seven 10-hour tours fall, or in excess
6 of 10 hours for any day included in the regularly
7 scheduled 70-hour tour of duty, or in excess of 80
8 hours during a pay period.

9 “(ii) Except as provided in subparagraph (i), a
10 registered nurse to whom this subsection is applica-
11 ble is not entitled to additional pay under section
12 7453 of this title, or other applicable law, for any
13 period included in a regularly scheduled 10-hour
14 tour of duty.

15 “(3) A nurse who works a 7/7 work schedule
16 described in this subsection who is absent on ap-
17 proved sick leave or annual leave during a regularly
18 scheduled 12-hour tour of duty shall be charged for
19 such leave at a rate of eight hours of leave for seven
20 hours of absence.

21 “(d) 9-MONTH WORK SCHEDULE.—The Secretary
22 may authorize a registered nurse appointed under section
23 7405, with the nurse's written consent, to work full-time
24 for nine months with three months off duty, within a fiscal
25 year, and be paid at 75 percent of the full-time rate for

1 such nurse's grade for each pay period of such fiscal year.
 2 Such employee shall be considered a .75 full-time equivalent
 3 employee in computing full-time equivalent employees
 4 for the purposes of determining compliance with personnel
 5 ceilings. Service on this schedule shall be considered part-
 6 time service for purposes of computing benefits under
 7 chapters 83 and 84 of title 5.

8 “(e) The Secretary shall prescribe regulations for the
 9 implementation of this section.”

10 (b) The title and list of sections for Subchapter IV
 11 in the table of sections at the beginning of Chapter 74
 12 is amended to read as follows:

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

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

“Sec. 7452. Nurses and other health-care personnel: administration of pay.

“Sec. 7453. Nurses: additional pay.

“Sec. 7454. Physician assistants and other health care professionals: additional
 pay.

“Sec. 7455. Increases in rates of basic pay.

“Sec. 7456. Nurses: special rules for weekend duty.

“Sec. 7456a. Alternate work schedules.

“Sec. 7457. On-call pay.

“Sec. 7458. Recruitment and retention bonus pay.”

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

14 (a) Section 7452 is amended by adding at the end
 15 thereof:

16 “(g)(1) In order to recruit and retain highly qualified
 17 Department nurse executives, the Secretary, in accordance
 18 with regulations the Secretary shall prescribe, shall pay
 19 special pay to the nurse executive at each Department
 20 health-care facility or at Central Office.

1 “(2) Special pay paid under paragraph (1) shall be
 2 a minimum of \$10,000 and a maximum of \$25,000. The
 3 amount paid to each nurse executive shall be based on fac-
 4 tors such as the grade of the nurse executive position, the
 5 scope and complexity of the nurse executive position, the
 6 nurse executive’s personal qualifications, the characteris-
 7 ties of the health-care facility, e.g., tertiary, single site or
 8 multi-site, nature and number of specialty care units, dem-
 9 onstrated recruitment and retention difficulties, and such
 10 other factors the Secretary deems appropriate.

11 “(3) Special pay paid under paragraph (1) shall be
 12 in addition to any other pay (including basic pay) and al-
 13 lowances to which the nurse executive is entitled, and shall
 14 be considered pay for all purposes, including but not lim-
 15 ited to retirement benefits under chapters 83 and 84 of
 16 title 5, United States Code, and other benefits, but shall
 17 not be considered basic pay for purposes of adverse actions
 18 under subchapter V.”.

19 **SEC. 6. EFFECTIVE DATE.**

20 The amendments to title 38, United States Code,
 21 contained herein shall take effect on the first day of the
 22 first pay period on or after the later of April 1, 2004,
 23 or six months after the date of enactment.

1 **SEC. 7. ADMINISTRATIVE PROVISION.**

2 (a) Chapter 74 is amended by adding a new section
3 7427:

4 **“§ 7427. Functions**

5 “The functions assigned to the Secretary and other
6 officers of the Department of Veterans Affairs under this
7 chapter are vested in their discretion.”

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Department of Veterans*
10 *Affairs Health Care Personnel Enhancement Act of 2004”.*

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

12 *Except as otherwise expressly provided, whenever in*
13 *this Act an amendment is expressed in terms of an amend-*
14 *ment to a section or other provision, the reference shall be*
15 *considered to be made to a section or other provision of title*
16 *38, United States Code.*

17 **SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE**
18 **AND PAY PROVISIONS FOR PHYSICIANS AND**
19 **DENTISTS.**

20 (a) *SIMPLIFICATION OF GRADES AND GRADE RE-*
21 *QUIREMENTS.—Section 7404(b) is amended—*

22 (1) *by striking “(1)” after “(b)”;*

23 (2) *in the Physician and Dentist Schedule, by*
24 *striking the items relating to the grades and inserting*
25 *the following:*

26 *“Physician grade.*

1 *“Dentist grade.”; and*

2 *(3) by striking paragraph (2).*

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

6 ***“SUBCHAPTER III—PAY FOR PHYSICIANS AND***
 7 ***DENTISTS***

8 ***“§ 7431. Pay***

9 ***“(a) ELEMENTS OF PAY.***—*Pay of physicians and den-*
 10 *tists in the Veterans Health Administration shall consist*
 11 *of three elements as follows:*

12 ***“(1) Base pay as provided for under subsection***
 13 ***(b).***

14 ***“(2) Market pay as provided for under sub-***
 15 ***section (c).***

16 ***“(3) Incentive pay as provided for under sub-***
 17 ***section (d).***

18 ***“(b) BASE PAY.***—*One element of pay for physicians*
 19 *and dentists shall be base pay. Base pay shall meet the fol-*
 20 *lowing requirements:*

21 ***“(1) Each physician and dentist is entitled to***
 22 ***base pay determined under the Physician and Dentist***
 23 ***Base and Longevity Pay Schedule.***

24 ***“(2) The Physician and Dentist Base and Lon-***
 25 ***gevity Pay Schedule is composed of 15 rates of base***

1 pay designated, from the lowest rate of pay to the
2 highest rate of pay, as base pay steps 1 through 15.

3 “(3) The rate of base pay payable to a physician
4 or dentist is based on the total number of the years
5 of the service of the physician or dentist in the Vet-
6 erans 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.

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

13 “(c) **MARKET PAY.**—One element of pay for physicians
14 and dentists shall be market pay. Market pay shall meet
15 the following requirements:

16 “(1) Subject to paragraph (3), each physician
17 and dentist is eligible for market pay.

1 “(2) Market pay shall consist of pay intended to
2 reflect the value to the Veterans Health Administra-
3 tion of the skills, experience, and availability of a
4 particular physician or dentist within a particular
5 health care labor market.

6 “(3) The annual amount of the market pay pay-
7 able to a physician or dentist shall be determined by
8 the Secretary on a case-by-case basis, subject to para-
9 graph (5). The sum of the total amount of the market
10 pay determined for a physician or dentist under this
11 subsection and the annual rate of base pay payable
12 to the physician or dentist under subsection (b) may
13 not be less than the minimum amount, nor more than
14 the maximum amount, applicable to the physician or
15 dentist under paragraph (4).

16 “(4)(A) Not less often than once every two years,
17 the Secretary shall prescribe for Departmentwide ap-
18 plicability the minimum and maximum amounts of
19 annual pay (excluding incentive pay under subsection
20 (d)) that may be paid under this section to physi-
21 cians and the minimum and maximum amounts of
22 annual pay (excluding incentive pay under subsection
23 (d)) that may be paid under this section to dentists.

24 “(B) The Secretary may prescribe for Depart-
25 mentwide applicability under this paragraph sepa-

1 *rate minimum and maximum amounts of pay for a*
2 *specialty or subspecialty. If the Secretary prescribes*
3 *separate minimum and maximum amounts for a spe-*
4 *cialty or subspecialty, the Secretary may establish up*
5 *to four tiers of minimum and maximum amounts for*
6 *such specialty or subspecialty and prescribe for each*
7 *tier a minimum amount and a maximum amount*
8 *that the Secretary determines appropriate for the pro-*
9 *fessional responsibilities, professional achievements,*
10 *and administrative duties of the physicians or den-*
11 *tists (as the case may be) whose pay is set within that*
12 *tier.*

13 *“(5)(A) In determining the amount of the market*
14 *pay for a physician or dentist and determining a tier*
15 *(if any) to apply to a physician or dentist under*
16 *paragraph (4)(B), the Secretary shall consult with*
17 *and consider the recommendations of the Medical Pro-*
18 *fessional Standards Board for the medical facility of*
19 *the Department at which the physician or dentist is*
20 *employed, except in the case of a physician or dentist*
21 *whose market pay is determined under subparagraph*
22 *(B).*

23 *“(B) In the case of a physician or dentist who*
24 *is a member of a Medical Professional Standards*
25 *Board, the Secretary shall determine the amount of*

1 *the market pay and the tier (if any) applicable to the*
 2 *physician or dentist under paragraph (4)(B) in ac-*
 3 *cordance with such procedures and standards as the*
 4 *Secretary shall prescribe. Such procedures and stand-*
 5 *ards shall, to the maximum extent practicable, be simi-*
 6 *lar to the procedures and standards applicable to de-*
 7 *terminations of the amount of market pay and the tier*
 8 *applicable to physicians and dentists under paragraph*
 9 *(4)(B) who are not members of a board. Under such*
 10 *regulations, no member of a board may participate in*
 11 *or have a consultative role in determining the amount*
 12 *of market pay or tier of such member or any other*
 13 *member of such board.*

14 “(C) *A Medical Professional Standards Board*
 15 *consulted under this subparagraph shall consist of at*
 16 *least three and not more than five persons, each of*
 17 *whom is either a physician or a dentist. Not less than*
 18 *a majority of the members of the board shall be prac-*
 19 *ticing clinicians in their professions.*

20 “(6) *Subject to paragraph (7), the determination*
 21 *of the amount of market pay of a physician or dentist*
 22 *shall take into account—*

23 “(A) *the level of experience of the physician*
 24 *or dentist in the specialty or subspecialty of the*
 25 *physician or dentist;*

1 “(B) the need for the specialty or sub-
2 specialty of the physician or dentist at the De-
3 partment facility concerned;

4 “(C) the health care labor market for the
5 specialty or subspecialty of the physician or den-
6 tist, which may cover any geographic area the
7 Secretary considers appropriate for the specialty
8 or subspecialty;

9 “(D) the professional reputation of the phy-
10 sician or dentist;

11 “(E) the board certifications, if any, of the
12 physician or dentist;

13 “(F) the prior experience, if any, of the
14 physician or dentist as an employee of the Vet-
15 erans Health Administration; and

16 “(G) such other considerations as the Sec-
17 retary considers appropriate.

18 “(7) The amount that any consideration speci-
19 fied in paragraph (6) may contribute to the amount
20 of market pay may not exceed, or be less than, such
21 amount as the Secretary may specify in regulations
22 prescribed under section 7433 of this title, or in direc-
23 tives issued for purposes of this subsection.

24 “(8) In determining amounts of market pay, the
25 Secretary—

1 “(A) shall consult two or more national sur-
2 veys of pay for physicians or dentists, as appli-
3 cable, whether prepared by public, private, or
4 quasi-public entities; and

5 “(B) may utilize the recommendations or
6 assistance of one or more boards of physicians or
7 dentists, as applicable, that are appointed by the
8 Secretary for purposes of this subsection.

9 “(9) The amount of market pay of a physician
10 or dentist shall be adjusted at such times as the Sec-
11 retary considers appropriate in order to ensure the
12 retention of qualified physicians and dentists by the
13 Veterans Health Administration.

14 “(10) The amount of market pay of a physician
15 or dentist shall be evaluated by the Secretary not less
16 often than once every 24 months. The amount of mar-
17 ket pay may be adjusted as the result of an evalua-
18 tion under this paragraph. A physician or dentist
19 whose market pay is increased by reason of an eval-
20 uation under this paragraph shall receive written no-
21 tice of the increase in accordance with procedures pre-
22 scribed under section 7433 of this title.

23 “(11) No adjustment of the amount of market
24 pay of a physician or dentist under paragraph (9) or

1 (10) may result in a reduction of the amount of mar-
 2 ket pay of the physician or dentist.

3 “(d) *INCENTIVE PAY.*—One element of pay for physi-
 4 cians and dentists shall be incentive pay. Incentive pay
 5 shall meet the following requirements:

6 “(1) Each physician and dentist is eligible for
 7 incentive pay.

8 “(2) Incentive pay shall consist of an amount
 9 intended to recognize outstanding contributions by a
 10 physician or dentist to—

11 “(A) the facility in which employed;

12 “(B) the furnishing of care to veterans; or

13 “(C) the practice of medicine or dentistry,
 14 as applicable.

15 “(3) The amount of incentive pay shall be deter-
 16 mined for a physician or dentist by the Secretary.

17 “(4) The amount of incentive pay shall be deter-
 18 mined for a physician or dentist on a case-by-case
 19 basis.

20 “(5) The amount of incentive pay paid to a phy-
 21 sician or dentist in a calendar year may not exceed
 22 \$10,000.

23 “(e) *DELEGATION OF RESPONSIBILITIES.*—The Sec-
 24 retary may delegate to an appropriate officer or employee
 25 of the Department any responsibility of the Secretary under

1 subsection (c) or (d), except for the responsibilities of the
2 Secretary under subsection (c)(4).

3 “(f) *LIMITATION ON TOTAL COMPENSATION.*—In no
4 case may the total amount of compensation paid to a physi-
5 cian or dentist under this section in any year exceed the
6 amount of annual compensation (excluding expenses) speci-
7 fied in section 102 of title 3.

8 “(g) *TREATMENT OF PAY.*—(1) Except as provided in
9 paragraph (2), pay under this subchapter shall be consid-
10 ered pay for all purposes, including retirement benefits
11 under chapters 83 and 84 of title 5 and other benefits.

12 “(2) Incentive pay under subsection (d) shall not be
13 considered pay for purposes of retirement benefits under
14 chapters 83 and 84 of title 5.

15 “(h) *DECREASES IN CERTAIN PAY NOT TREATABLE AS*
16 *ADVERSE ACTION.*—A decrease in pay of a physician or
17 dentist resulting from an adjustment in the amount of in-
18 centive pay of the physician or dentist under subsection (d)
19 shall not be treated as an adverse action.

20 **“§ 7432. Pay of Under Secretary for Health**

21 “(a) *BASE PAY.*—The base pay of the Under Secretary
22 for Health shall be the annual rate of basic pay for posi-
23 tions at Level III of the Executive Schedule under section
24 5314 of title 5.

1 “(b) *MARKET PAY.*—(1) *In the case of an Under Sec-*
 2 *retary for Health who is also a physician or dentist, in*
 3 *addition to the base pay specified in subsection (a) the*
 4 *Under Secretary for Health may also be paid the market*
 5 *pay element of pay of physicians and dentists under section*
 6 *7431(c) of this title.*

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

10 “(3) *In establishing the amount of market pay of the*
 11 *Under Secretary for Health under this subsection, the Sec-*
 12 *retary shall utilize an appropriate health care labor market*
 13 *selected by the Secretary for purposes of this subsection.*

14 **“§ 7433. Administrative matters**

15 “(a) *REGULATIONS.*—(1) *The Secretary shall prescribe*
 16 *regulations relating to the pay of physicians and dentists*
 17 *in the Veterans Health Administration under this sub-*
 18 *chapter.*

19 “(2) *In prescribing the regulations, the Secretary shall*
 20 *take into account the recommendations of the Under Sec-*
 21 *retary for Health on the administration of this subchapter.*

22 “(b) *REPORTS.*—(1) *Not later than 18 months after*
 23 *the Secretary prescribes the regulations required by sub-*
 24 *section (a), and annually thereafter for the next 10 years,*
 25 *the Secretary shall submit to the Committees on Veterans’*

1 *Affairs of the Senate and House of Representatives a report*
 2 *on the pay of physicians and dentists in the Veterans*
 3 *Health Administration under this subchapter.*

4 “(2) *Each report under this subsection shall include*
 5 *the following:*

6 “(A) *A description of the rates of pay in effect*
 7 *during the preceding fiscal year with a comparison to*
 8 *the rates in effect during the fiscal year preceding fis-*
 9 *cal year, set forth by facility and by specialty.*

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

13 “(C) *The number of unfilled physician positions*
 14 *and dentist positions in each specialty in the Vet-*
 15 *erans Health Administration, the average and max-*
 16 *imum lengths of time that such positions have been*
 17 *unfilled, and an assessment of the reasons that such*
 18 *positions remain unfilled.*

19 “(D) *An assessment of the impact of implemen-*
 20 *tation of this subchapter on efforts to recruit and re-*
 21 *tain physicians and dentists in the Veterans Health*
 22 *Administration.*

23 “(3) *The first two annual reports under this subsection*
 24 *shall also include a comparison of staffing levels, contract*
 25 *expenditures, and average salaries of physicians and den-*

tists in the Veterans Health Administration for the fiscal year preceding such report and for the fiscal year preceding such fiscal year, set forth by facility and by specialty.”.

(c) *INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS.*—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	\$127,000
14	\$130,000
15	\$133,000.

(d) *TRANSITION PROVISIONS.*—

(1) *PHYSICIANS AND DENTISTS.*—

(A) *PAY.*—(i) A physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before the date of the enactment of this Act shall continue to receive pay under such section (as in effect on the day before the date of the enactment of this

1 *Act) until the effective date of this Act under sec-*
 2 *tion 8 of this Act.*

3 *(ii) A physician or dentist appointed or re-*
 4 *assigned on or after the date of the enactment of*
 5 *this Act, but before the effective date of this Act,*
 6 *shall be compensated in accordance with appli-*
 7 *cable provisions of section 7404 or 7405 of title*
 8 *38, United States Code (as in effect on the day*
 9 *before date of the enactment of this Act), until*
 10 *the effective date of this Act.*

11 *(B) SPECIAL PAY.—(i) A special pay agree-*
 12 *ment entered into by a physician or dentist*
 13 *under subchapter III of chapter 74 of title 38,*
 14 *United States Code, before the date of the enact-*
 15 *ment of this Act shall terminate on the date of*
 16 *the enactment of this Act. However, a physician*
 17 *or dentist in receipt of special pay pursuant to*
 18 *such an agreement on that date shall continue to*
 19 *receive special pay under the terms of such*
 20 *agreement until the effective date of this Act.*

21 *(ii) A physician or dentist described in sub-*
 22 *paragraph (A)(ii) may be paid special pay*
 23 *under applicable provisions of section 7433,*
 24 *7434, 7435, or 7436 of title 38, United States*
 25 *Code (as in effect on the day before the date of*

1 *the enactment of this Act), during the period be-*
 2 *ginning on the date appointment or reassign-*
 3 *ment of such physician or dentist, as the case*
 4 *may be, and ending on the effective date of this*
 5 *Act. However, no special pay agreement shall be*
 6 *required for the payment of special pay under*
 7 *this clause.*

8 *(C) TREATMENT OF SPECIAL PAY.—(i) Spe-*
 9 *cial pay paid under subparagraph (B) shall be*
 10 *subject to the provisions of paragraphs (1), (2),*
 11 *(4), (5), and (6) of section 7438(b) of title 38,*
 12 *United States Code (as in effect on the day before*
 13 *the date of the enactment of this Act).*

14 *(ii) Special pay paid under subparagraph*
 15 *(B) shall be fully creditable for purposes of com-*
 16 *puting benefits under chapters 83 and 84 of title*
 17 *5, United States Code.*

18 *(D) PRESERVATION OF PAY.—The amount*
 19 *of pay paid under subchapter III of chapter 74*
 20 *of title 38, United States Code (as amended by*
 21 *subsection (a)), to a physician or dentist ap-*
 22 *pointed or reassigned before the effective date of*
 23 *this Act may be not less than the aggregate*
 24 *amount of pay and special pay paid to the phy-*
 25 *sician or dentist under chapter 74 of title 38,*

1 *United States Code (as in effect on the day before*
 2 *the date of the enactment of this Act), as of the*
 3 *day before the effective date of this Act.*

4 *(2) UNDER SECRETARY FOR HEALTH.—*

5 *(A) SPECIAL PAY.—(i) The current special*
 6 *pay agreement entered into by the Under Sec-*
 7 *retary for Health under subchapter III of chap-*
 8 *ter 74 of title 38, United States Code, before the*
 9 *date of the enactment of this Act shall terminate*
 10 *on the date of the enactment of this Act. How-*
 11 *ever, the Under Secretary shall continue to re-*
 12 *ceive special pay under the terms of such agree-*
 13 *ment until the effective date of this Act.*

14 *(ii) An individual appointed as Under Sec-*
 15 *retary for Health on or after the date of the en-*
 16 *actment of this Act and before the effective date*
 17 *of this Act shall be paid special pay in accord-*
 18 *ance with the provisions of section 7432(d)(2),*
 19 *7433, and 7437(a) of title 38, United States*
 20 *Code (as in effect on the day before the date of*
 21 *the enactment of this Act), during the period be-*
 22 *ginning on the date of appointment and ending*
 23 *on the effective date of this Act. However, no spe-*
 24 *cial pay agreement shall be required for the pay-*
 25 *ment of special pay under this clause.*

1 (B) *TREATMENT OF SPECIAL PAY.*—*Special*
 2 *pay paid under subparagraph (A) shall be fully*
 3 *creditable for purposes of computing benefits*
 4 *under chapters 83 and 84 of title 5, United*
 5 *States Code.*

6 (e) *CONFORMING AMENDMENT.*—*Section 7404(c) is*
 7 *amended by striking “special pay” and inserting “pay”.*

8 (f) *CLERICAL AMENDMENT.*—*The table of sections at*
 9 *the beginning of chapter 74 is amended by striking the*
 10 *items relating to subchapter III and inserting the following*
 11 *new items:*

 “SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

 “Sec. 7431. Pay.

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

 “Sec. 7433. Administrative matters.”.

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

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

16 **“§ 7456A. Nurses: alternate work schedules**

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

19 “(b) *36/40 WORK SCHEDULE.*—(1) *Subject to para-*
 20 *graph (2), if the Secretary determines it be necessary in*
 21 *order to obtain or retain the services of registered nurses*
 22 *at any Department health-care facility, the Secretary may*
 23 *provide, in the case of nurses employed at such facility, that*

1 *such nurses who work three regularly scheduled 12-hour*
 2 *tours of duty within a workweek shall be considered for all*
 3 *purposes (except computation of full-time equivalent em-*
 4 *ployees for the purposes of determining compliance with*
 5 *personnel ceilings) to have worked a full 40-hour basic*
 6 *workweek.*

7 “(2)(A) *Basic and additional pay for a nurse who is*
 8 *considered under paragraph (1) to have worked a full 40-*
 9 *hour basic workweek shall be subject to subparagraphs (B)*
 10 *and (C).*

11 “(B) *The hourly rate of basic pay for a nurse covered*
 12 *by this paragraph for service performed as part of a regu-*
 13 *larly scheduled 36-hour tour of duty within the workweek*
 14 *shall be derived by dividing the nurse’s annual rate of basic*
 15 *pay by 1,872.*

16 “(C)(i) *A nurse covered by this paragraph is entitled*
 17 *to overtime pay for work performed in such periods as the*
 18 *Secretary shall prescribe.*

19 “(ii) *Except as otherwise provided in clause (i), a*
 20 *nurse covered by this paragraph is not entitled to addi-*
 21 *tional pay under section 7453 of this title, or other applica-*
 22 *ble law, for any period included in a regularly scheduled*
 23 *12-hour tour of duty.*

24 “(3) *A nurse who works a work schedule described in*
 25 *this subsection who is absent on approved sick leave or an-*

1 nual leave during a regularly scheduled 12-hour tour of
 2 duty shall be charged for such leave at a rate of ten hours
 3 of leave for every nine hours of absence.

4 “(4) A nurse working a work schedule under this sub-
 5 section shall be eligible for holiday pay under section
 6 7453(d) of this title for any service performed by the nurse
 7 on a designated holiday under such section, regardless of
 8 whether such holiday occurs during or outside the nurse’s
 9 regularly scheduled tour of duty under such work schedule.

10 “(c) 9-MONTH WORK SCHEDULE FOR CERTAIN
 11 NURSES.—(1) The Secretary may authorize a registered
 12 nurse appointed under section 7405 of this title, with the
 13 nurse’s written consent, to work fulltime for nine months
 14 with 3 months off duty, within a fiscal year, and be paid
 15 at 75 percent of the fulltime rate for such nurse’s grade for
 16 each pay period of such fiscal year.

17 “(2) A nurse who works under the authority in para-
 18 graph (1) shall be considered a 0.75 fulltime equivalent em-
 19 ployee in computing fulltime equivalent employees for the
 20 purposes of determining compliance with personnel ceilings.

21 “(3) Work under this subsection shall be considered
 22 parttime service for purposes of computing benefits under
 23 chapters 83 and 84 of title 5.

1 “(4) *A nurse who works under the authority in para-*
 2 *graph (1) shall be considered a fulltime employee for pur-*
 3 *poses of chapter 89 of title 5.*

4 “(d) *TREATMENT AS FULL-TIME EMPLOYEE.—(1) A*
 5 *nurse working a work schedule under subsection (b) or (c)*
 6 *who is a full-time employee in non-probationary status at*
 7 *the commencement of work under such work schedule shall*
 8 *remain a full-time employee in non-probationary status*
 9 *while working under such work schedule.*

10 “(2)(A) *A nurse under a part-time appointment under*
 11 *section 7405(d) of this title who, while working a work*
 12 *schedule under subsection (b) or (c), performs hours of serv-*
 13 *ice (as determined in accordance with such subsection)*
 14 *equivalent to two years of service shall be treated as a full-*
 15 *time employee and no longer in probationary status.*

16 “(B) *In determining the hours of service performed by*
 17 *a nurse for purposes of subparagraph (A), any hours of*
 18 *service not performed under a work schedule under sub-*
 19 *section (b) or (c) shall not be included.*

20 “(e) *NOTIFICATION OF MODIFICATION OF BENEFITS.—*
 21 *The Secretary shall provide each nurse with respect to*
 22 *whom an alternate work schedule under this section may*
 23 *apply written notice of the effect, if any, the alternate work*
 24 *schedule will have on the nurse’s health care premium, re-*
 25 *tirement, life insurance premium, probationary status, or*

1 *other benefit or condition of employment. The notice shall*
 2 *be provided not later than 14 days before the nurse consents*
 3 *to the alternate work schedule.*

4 “(f) *REGULATIONS.*—*The Secretary shall prescribe reg-*
 5 *ulations to carry out this section.*”.

6 (2) *The table of sections at the beginning of chapter*
 7 *74 is amended by inserting after the item relating to section*
 8 *7456 the following new item:*

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

9 (b) *POLICY AGAINST WORK SHIFTS IN EXCESS OF 12*
 10 *HOURS.*—(1) *It is the sense of Congress to encourage the*
 11 *Secretary of Veterans Affairs to prevent work shifts by*
 12 *nurses providing direct patient care in excess of 12 hours*
 13 *in any 24 hour period.*

14 (2) *Not later than one year after the date of the enact-*
 15 *ment of this Act and every year thereafter for the next two*
 16 *years, the Secretary shall certify to Congress whether or not*
 17 *each Veterans Health Administration facility has in place,*
 18 *as of the date of such certification, a policy designed to pre-*
 19 *vent work shifts by nurses providing direct patient care in*
 20 *excess of 12 hours in any 24 hour period.*

21 (c) *REPORT ON OVERTIME FOR CERTAIN NURSES.*—
 22 (1) *Not later than one year after the effective date of this*
 23 *Act, the Secretary of Veterans Affairs shall submit to Con-*
 24 *gress a report on the overtime, if any, worked by nurses*
 25 *covered by work schedules described by subsections (b) and*

1 (c) of section 7456A of title 38, United States Code (as
 2 added by subsection (a)), during the one-year period ending
 3 on the date of such report.

4 (2) The report shall set forth—

5 (A) the aggregate number of hours of overtime
 6 worked by nurses under each such work schedule dur-
 7 ing the one-year period ending on the date of the re-
 8 port; and

9 (B) the aggregate amount of overtime pay paid
 10 to nurses working under each such work schedule dur-
 11 ing such period.

12 **SEC. 5. RATE OF PAY FOR DIRECTOR OF NURSING SERVICE.**

13 (a) SENIOR EXECUTIVE SERVICE ES-6 RATE.—(1)
 14 Subchapter IV of chapter 74 is amended by adding at the
 15 end the following new section:

16 **“§ 7459. Director of Nursing Service: rate of pay**

17 “(a) SENIOR EXECUTIVE SERVICE ES-6 RATE.—The
 18 rate of pay for the Director of Nursing Service shall be equal
 19 to the sum of the maximum rate of basic pay established
 20 for the Senior Executive Service under section 5382 of title
 21 5 and the amount of the locality-based comparability pay-
 22 ment provided under section 5304 of such title for the Direc-
 23 tor’s locality.

1 “(b) *INAPPLICABILITY OF NURSE PAY PROVISION.*—
 2 *Section 7451 of this title does not apply to the Director*
 3 *of Nursing Service.*”.

4 (2) *The table of sections at the beginning of chapter*
 5 *74 is amended by inserting after the item relating to section*
 6 *7458 the following new item:*

“Sec. 7459. Director of Nursing Service: rate of pay.”.

7 (b) *CONFORMING AMENDMENT.*—*Section 7404(d) is*
 8 *amended by striking “section 7457” and inserting “sections*
 9 *7457 and 7459”.*

10 **SEC. 6. NURSE EXECUTIVE SPECIAL PAY.**

11 *Section 7452 is amended by adding at the end the fol-*
 12 *lowing new subsection:*

13 “(g)(1) *In order to recruit and retain highly qualified*
 14 *Department nurse executives, the Secretary may, in accord-*
 15 *ance with regulations prescribed by the Secretary, pay spe-*
 16 *cial pay to the nurse executive at each location as follows:*

17 “(A) *Each Department healthcare facility.*

18 “(B) *The Central Office.*

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

22 “(3) *The amount of special pay paid to a nurse execu-*
 23 *tive under paragraph (1) shall be based on factors such as*
 24 *the grade of the nurse executive position, the scope and com-*
 25 *plexity of the nurse executive position, the personal quali-*

1 *fications of the nurse executive, the characteristics of the*
 2 *healthcare facility concerned, the nature and number of spe-*
 3 *cialty care units at the healthcare facility concerned, dem-*
 4 *onstrated difficulties in recruitment and retention of nurse*
 5 *executives at the healthcare facility concerned, and such*
 6 *other factors as the Secretary considers appropriate.*

7 “(4) Special pay paid to a nurse executive under para-
 8 graph (1) shall be in addition to any other pay (including
 9 basic pay) and allowances to which the nurse executive is
 10 entitled, and shall be considered pay for all purposes, in-
 11 cluding retirement benefits under chapters 83 and 84 of title
 12 5, and other benefits, but shall not be considered basic pay
 13 for purposes of adverse actions under subchapter V.”.

14 **SEC. 7. CLARIFICATION OF DISCRETIONARY NATURE OF**
 15 **VETERANS HEALTH ADMINISTRATION PER-**
 16 **SONNEL ADMINISTRATION AUTHORITIES.**

17 (a) *IN GENERAL.*—Chapter 74 is amended by insert-
 18 ing after section 7426 the following new section:

19 **“§ 7427. Discretionary nature of functions**

20 *“Any authority assigned to the Secretary or another*
 21 *officer of the Department under this chapter shall be carried*
 22 *out at the discretion of the Secretary or other officer, as*
 23 *the case may be.”.*

1 (b) *CLERICAL AMENDMENT.*—*The table of sections at*
 2 *the beginning of chapter 74 is amended by inserting after*
 3 *the item relating to section 7426 the following new item:*

“7427. Discretionary nature of functions.”.

4 ***SEC. 8. EFFECTIVE DATE.***

5 *The amendments to title 38, United States Code, made*
 6 *by this Act shall take effect one year after the date of the*
 7 *enactment of this Act.*

Amend the title so as to read: “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.”.

Calendar No. 713

108TH CONGRESS
2D Session

S. 2484

[Report No. 108-357]

A BILL

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

SEPTEMBER 23, 2004

Reported with an amendment and an amendment to the title