H. R. 1367

[Report No. 115–35, Part I]

To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2017

Mr. Wenstrup introduced the following bill; which was referred to the Committee on Veterans’ Affairs, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH 10, 2017

Additional sponsors: Miss González-Colón of Puerto Rico, Mr. Dunn, Mr. Sessions, and Ms. Sinema

MARCH 10, 2017

Reported from the Committee on Veterans’ Affairs

MARCH 10, 2017

The Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed
A BILL

To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.
Sec. 2. Modification to annual determination of staffing shortages in Veterans Health Administration.
Sec. 3. Executive management fellowship program.
Sec. 4. Accountability of leaders for managing the Department of Veterans Affairs.
Sec. 5. Modification to veterans preference.
Sec. 6. Reemployment of former employees.
Sec. 7. Recruiting database.
Sec. 8. Human resources academy.
Sec. 9. Promotional opportunities for technical experts.
Sec. 10. Comptroller General study on succession planning.
Sec. 11. Information on hiring effectiveness.
Sec. 12. Employment of students and recent graduates.
Sec. 13. Exit surveys.

SEC. 2. MODIFICATION TO ANNUAL DETERMINATION OF STAFFING SHORTAGES IN VETERANS HEALTH ADMINISTRATION.

Section 7412(a) of title 38, United States Code, is amended—

(1) by striking “the five occupations” and inserting “the five clinical occupations and the five nonclinical occupations”; and

(2) by striking “throughout the Department” and inserting “with respect to each medical center of the Department,”.
SEC. 3. EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM.

(a) FELLOWSHIP PROGRAM.—Chapter 7 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM

§ 741. Executive Management Fellowship Program

(a) FELLOWSHIP PROGRAM.—There is in the Department an Executive Management Fellowship Program. The purpose of the program shall be to provide—

"(1) eligible employees of the Veterans Benefits Administration and the Veterans Health Administration with training and experience in the private sector; and

"(2) eligible employees of a private-sector entity with training and experience in the Department of Veterans Affairs.

(b) FELLOWSHIP.—(1) A fellowship provided under this section is a one-year fellowship during which—

"(A) with respect to a Department participant, the participant receives training and experience at a private-sector entity that is engaged in the administration and delivery of health care or other services similar to the benefits administered by the Secretary; and
“(B) with respect to a private-sector participant, the participant receives training and experience at the Veterans Benefits Administration or the Veterans Health Administration.

“(2) The Secretary shall enter into such agreements with private-sector entities as are necessary to carry out this section.

“(c) SELECTION OF RECIPIENTS.—(1) In August of each year, the Secretary shall select—

“(A) not fewer than 18 and not more than 30 eligible employees of the Veterans Benefits Administration and the Veterans Health Administration to receive a fellowship under this section; and

“(B) not fewer than 18 and not more than 30 eligible employees of private-sector entities to receive a fellowship under this section.

“(2) To the extent practicable, the Secretary shall select eligible employees under subparagraphs (A) and (B) of paragraph (1) from among eligible employees who are veterans in a manner that is reflective of the demographics of the veteran population of the United States.

“(d) ELIGIBLE EMPLOYEES.—For the purposes of this section, an eligible employee is—

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“(1) with respect to an employee of the Veterans Benefits Administration or the Veterans Health Administration, an employee who—

“(A) is compensated at a rate of basic pay not less than the minimum rate of basic pay payable for grade GS–14 of the General Schedule and not more than either the minimum rate of basic pay payable to a member of the Senior Executive Service under section 5382 of title 5, United States Code, or the minimum rate of basic pay payable pursuant to chapter 74 of this title, as the case may be;

“(B) enters into an agreement with the Secretary under subsection (e); and

“(C) submits to the Secretary an application containing such information and assurances as the Secretary may require; and

“(2) with respect to an employee of a private-sector entity, an employee who—

“(A) is employed in a position whose duties and responsibilities are commensurate with an employee of the Department described in paragraph (1);

“(B) enters into an agreement with the Secretary under subsection (e); and
“(C) submits to the Secretary an application containing such information and assurances as the Secretary may require.

“(e) AGREEMENTS.—(1) An agreement between the Secretary and a Department participant shall be in writing, shall be signed by the participant, and shall include the following provisions:

“(A) The Secretary’s agreement to provide the participant with a fellowship under this section;

“(B) The participant’s agreement—

“(i) to accept the fellowship;

“(ii) after completion of the fellowship, to serve as a full-time employee in the Veterans Benefits Administration or the Veterans Health Administration for at least two years as specified in the agreement; and

“(iii) that, during the two-year period beginning on the last day of the fellowship, the participant will not accept employment in the same industry as the industry of the private-sector entity at which the participant accepts the fellowship.

“(C) A provision that any financial obligation of the United States arising out of an agreement entered into under this subchapter, and any obligation
of the participant which is conditioned on such agreement, is contingent upon funds being appropriated.

“(D) A statement of the damages to which the United States is entitled under this subchapter for the participant’s breach of the agreement.

“(E) Such other terms as the Secretary determines are required to be included in the agreement.

“(2) An agreement between the Secretary and a private-sector participant shall be in writing, shall be signed by the participant, and shall include the following provisions:

“(A) The Secretary’s agreement to provide the participant with a fellowship under this section.

“(B) The participant’s agreement to accept the fellowship.

“(C) Such other terms as the Secretary determines are required to be included in the agreement.

“(f) TREATMENT OF RECIPIENTS.—(1) A Department participant shall be considered an employee of the Department for all purposes, including for purposes of receiving a salary and benefits, and shall remain eligible for all promotion and incentive programs otherwise available to such an employee.
“(2) A private-sector participant shall be considered an employee of the private-sector entity that employs the participant for all purposes, including for purposes of receiving a salary and benefits, and during the fellowship shall be treated as a contractor of the Department.

“(g) REPORTS.—Not later than 60 days after completing a fellowship under this section, a recipient of the fellowship shall submit to the Secretary a report on the fellowship. Each such report shall describe the duties of the recipient during the fellowship and any recommendations of the recipient for the application by the Secretary of industry processes, technologies, and best practices. Not later than seven days after receiving each such report, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives such report without change.

“(h) DEFINITIONS.—In this section:

“(1) The term ‘Department participant’ means an employee of the Veterans Benefits Administration or the Veterans Health Administration who is participating in the fellowship under this section.

“(2) The term ‘private-sector entity’ includes an entity operating under a public-private partnership.
“(3) The term ‘private-sector participant’ means an employee of a private-sector entity who is participating in the fellowship under this section.”.

(b) **Deadline for Implementation.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall implement the Executive Management Fellowship Program required under section 741 of title 38, United States Code, as added by subsection (a).

(c) **Clerical Amendment.**—The table of sections at the beginning of chapter 7 of title 38, United States Code, is amended by adding at the end the following new items:

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"SUBCHAPTER III—EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM

"741. Executive Management Fellowship Program.".
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**SEC. 4. ACCOUNTABILITY OF LEADERS FOR MANAGING THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) **In General.**—Chapter 7 of title 38, United States Code, is amended by inserting after section 717 the following new section:

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§ 719. Annual performance plan for political appointees

“(a) **In General.**—The Secretary shall conduct an annual performance plan for each political appointee of the Department that is similar to the annual performance plan conducted for an employee of the Department who
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is appointed as a career appointee (as that term is defined in section 3132(a)(4) of title 5) within the Senior Executive Service at the Department.

“(b) Elements of Plan.—Each annual performance plan conducted under subsection (a) with respect to a political appointee of the Department shall include an assessment of whether the appointee is meeting the following goals:

“(1) Recruiting, selecting, and retaining well-qualified individuals for employment at the Department.

“(2) Engaging and motivating employees.

“(3) Training and developing employees and preparing those employees for future leadership roles within the Department.

“(4) Holding each employee of the Department that is a manager accountable for addressing issues relating to performance, in particular issues relating to the performance of employees that report to the manager.

“(c) Definition of Political Appointee.—In this section, the term ‘political appointee’ means an employee of the Department who holds—

“(1) a position which has been excepted from the competitive service by reason of its confidential,
policy-determining, policy-making, or policy-advocating character; or

“(2) a position in the Senior Executive Service as a noncareer appointee (as such term is defined in section 3132(a) of title 5).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 717 the following new item:

“719. Annual performance plan for political appointees.”.

SEC. 5. MODIFICATION TO VETERANS PREFERENCE.

(a) ACTIVE DUTY REQUIREMENT.—Section 2108(1)(B) and (D) of title 5, United States Code, are amended by striking “consecutive” in each instance it appears and inserting “cumulative”.

(b) EXPANSION OF ELIGIBILITY OF RETIRED VETERANS.—Section 2108(4) of title 5, United States Code, is amended to read as follows:

“(4) ‘preference eligible’ includes a retired member of the armed forces; and”.

SEC. 6. REEMPLOYMENT OF FORMER EMPLOYEES.

(a) IN GENERAL.—The Secretary of Veterans Affairs may noncompetitively appoint a qualified former employee to any position within the competitive service or any excepted service position under chapter 74 of title 38, United States Code, at the Department of Veterans Affairs that
is one grade higher than the grade of the position at the
Department most recently occupied by the employee.

(b) LIMITATION.—The Secretary may not appoint a
qualified former employee to a position that is more than
one grade (or equivalent) higher than the position at the
Department most recently occupied by the employee.

(c) DEFINITION OF QUALIFIED FORMER EMPLOYEE.—For purposes of this section, the term “qualified former employee” means any individual who—

(1) formerly occupied any position at the Depart-
ment of Veterans Affairs within two years before
applying for reemployment at the Department;

(2) voluntarily left such position, or was subject
to a reduction in force, and had a satisfactory per-
formance record while occupying such position; and

(3) since leaving such position has maintained
licensing requirements, related to the position, if
any, and gained skill, knowledge, or other factors re-
lated to the position.

SEC. 7. RECRUITING DATABASE.

(a) ESTABLISHMENT.—The Secretary of Veterans
Affairs shall establish a single database that lists each va-
cant position in the Department of Veterans Affairs that
the Secretary determines is critical to the mission of the
Department, difficult to fill, or both.
(b) QUALIFIED APPLICANT.—If the Secretary determines that an applicant for a vacant position listed in the database established under subsection (a) is qualified for such position but does not select the applicant for such position, the Secretary, at the election of the applicant, shall consider the applicant for other similar vacant positions listed in the database for which the applicant is qualified.

(e) PROLONGED VACANCIES.—If the Secretary does not fill a vacant position listed in the database established under subsection (a) after a period determined appropriate by the Secretary, the Secretary—

(1) shall ensure that applicants described in subsection (b) are considered for such position; and

(2) shall use the database established under subsection (a) to assist in filling such position.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the use and efficacy of the database established under subsection (a).

SEC. 8. HUMAN RESOURCES ACADEMY.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall provide to human resources professionals of the Veterans Health Administration of the Department of Veterans Affairs 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. The Secretary shall provide such training in a manner that the Secretary determines appropriate in light of budget, travel, and other constraints.

(b) 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 resource professional; and

(2) annually thereafter.

(c) 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.

(d) ANNUAL REPORT.—The Secretary shall submit to the Committees on Veterans’ Affairs of the House of Representatives and the Senate an annual report on the training described in subsection (a), including the cost of
providing such training and the number of human re-
sources professionals who received such training during
the year covered by the report.

SEC. 9. PROMOTIONAL OPPORTUNITIES FOR TECHNICAL
EXPERTS.

Not later than one year after the date of the enact-
ment of this Act, the Secretary of Veterans Affairs shall
establish a promotional track system for employees of the
Department of Veterans Affairs that the Secretary deter-
mines are technical experts pursuant to regulations pre-
scribed by the Secretary for purposes of carrying out this
section. Such system shall—

(1) provide any such employee the opportunity
to advance within the Department without being re-
quired to transition to a management position; and

(2) for purposes of achieving career advance-
ment—

(A) provide for the establishment of new
positions within the Department; and

(B) notwithstanding any other provision of
law, provide for increases in pay for any such
employee.
SEC. 10. COMPTROLLER GENERAL STUDY ON SUCCESSION PLANNING.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on each of the following:

(1) The succession planning at each medical facility of the Department of Veterans Affairs.

(2) The succession planning at the Veterans Benefits Administration and the National Cemetery Administration of the Department.

(b) ELEMENTS.—The study under subsection (a) shall include, for each entity studied under the study, the following:

(1) A determination of the mission-critical positions within the entity and the vacancy risk of such positions.

(2) An analysis of the future needs for mission-critical positions and gaps within the existing talent pool of the entity.

(3) A description of strategies to close skill gaps through the use of training for existing staff, targeted recruitment, and hiring.

(4) A plan to regularly evaluate progress of staff and update existing succession plans using clear and measurable metrics and benchmarks.
(5) A demonstration of the capacity of the entity to execute succession plans with successful succession management strategies.

(6) Any other matters the Comptroller General determines appropriate.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing each study conducted under subsection (a).

SEC. 11. INFORMATION ON HIRING EFFECTIVENESS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall measure and collect information on indicators of hiring effectiveness as follows:

(1) With respect to recruiting and hiring—

(A) the ability to reach and recruit well-qualified talent from diverse talent pools, including sources of candidates for mission-critical occupations;

(B) the use and impact of special hiring authorities and flexibilities to recruit most qualified applicants, including the use of student internships as a talent pool for permanent hires;
(C) the use and impact of special hiring authorities and flexibilities to recruit diverse candidates, including veteran, minority and disabled candidates;

(D) the use and impact of special hiring authorities and flexibilities to recruit candidates for mission-critical occupations and occupations with shortages;

(E) the age, educational level, and source of applicants;

(F) the length of time between the date on which a position is advertised and the date on which a first offer of employment is made;

(G) the length of time between the date on which a first offer of employment for a position is made and the date on which a new hire starts in that position;

(H) the number of internal and external applicants for positions; and

(I) the number of offers accepted compared to the number of offers made for permanent positions.

(2) With respect to the hiring authority—

(A) the satisfaction of the hiring authority with—
(i) the quality of new hires;

(ii) the match between the skills of newly hired individuals and the needs of the Department;

(iii) the hiring process and hiring outcomes after the first year of the employment of a new hire; and

(iv) the length of time that elapses to fill a position and for a new hire to begin working in a new position; and

(B) mission-critical deficiencies filled by new hires and the connection between mission-critical deficiencies and annual agency performance.

(3) Satisfaction of employment applicants with the hiring process, including with respect to the clarity of job announcement, reasons for withdrawal of applications, user-friendliness of the application process, communication regarding status of application, and timeliness of hiring decision.

(4) With respect to a newly hired employee—

(A) the satisfaction of the employee with the hiring process as described in paragraph (3);
(B) the satisfaction with the process of joining and becoming oriented with the Department, including with respect to the timeliness of such process after the hiring decision, the orientation process, and being provided with timely and useful new employee information and assistance after the hire is made but before the new hire starts in that position and after the new hire has begun;

(C) attrition and reasons for leaving;

(D) investment in training and development for the employee during the first year of employment; and

(E) significant barriers to the effective recruitment, selection, joining and becoming oriented with the Department, and retention of employees.

(b) DISAGGREGATION OF DATA.—To the extent practicable and in a manner which protects personally identifiable information of applicants and employees, the Secretary shall collect and report data collected under subsection (a) disaggregated by facility or Veterans Integrated Service Network.

(c) REPORTS.—
(1) IN GENERAL.—On an annual basis, the Secretary shall submit to the Committees on Veterans’ Affairs of the House of Representatives and the Senate a report of the information collected under subsection (a).

(2) AVAILABILITY OF RECRUITING AND HIRING INFORMATION.—On an annual basis, the Secretary shall make publicly available the information collected under subsection (a) in a consistent and machine-readable format to allow for a comparison of hiring effectiveness and experience by Veterans Integrated Service Network or comparable public or private sector organization.

SEC. 12. EMPLOYMENT OF STUDENTS AND RECENT GRADUATES.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall prescribe regulations to allow for excepted service appointments of students and recent graduates leading to conversion to career or career conditional employment of a student or recent graduate of a qualifying educational institution, as defined by the Department.

(b) APPLICABILITY.—The conversion authority described in subsection (a) shall be applicable to individuals in good standing who—
(1) are employed in a qualifying internship or fellowship program at the Department;

(2) are employed in the Department in a volunteer capacity and performing substantive duties comparable to those of individuals in internship or fellowship programs and meet the required number of hours for conversion; or

(3) are employed in the Department under a contract or agreement with an external nonprofit organization and performing substantive duties comparable to those of individuals in internship or fellowship programs.

(c) Uniformity.—For the purposes of subsections (b)(2) and (b)(3), hours of work performed by an individual employed shall be considered equal to those performed by an individual employed in a qualifying internship or fellowship program by the Department.

SEC. 13. EXIT SURVEYS.

(a) In General.—The Secretary of Veterans Affairs shall develop and carry out a standardized exit survey to be voluntarily completed by career and noncareer employees and executives of the Department of Veterans Affairs who voluntarily separate from the Department. Such exit survey shall be developed in consultation with an appro-
priate non-Department entity with experience developing such surveys.

(b) SURVEY CONTENT.—The survey shall include, at a minimum—

(1) reasons for leaving the Department;

(2) efforts made by the supervisor of the employee to retain the individual;

(3) the extent of job satisfaction and engagement during the employment;

(4) the intent of employee to either remain employed within the Federal Government or to leave employment with the Federal Government; and

(5) such other matters as the Secretary determines appropriate.

(c) ANONYMITY OF SURVEY CONTENT.—The Secretary shall ensure that, to the extent possible, data collected under subsection (a) is anonymized and personally identifiable information is removed.

(d) SHARING OF SURVEY DATA.—The Secretary shall ensure that the results of the survey required by subsection (a) are shared on an annual basis with directors and managers of facilities of the Department and the Veterans Integrated Service Networks.

(e) REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the
Secretary shall submit to the Committees on Veterans’ Affairs of the House of Representatives and the Senate a report containing the aggregate results of the exit survey under subsection (a) covering the year prior to the report. The report shall include—

1. an analysis of the most common reasons employees choose to leave the Department;
2. steps the Secretary is taking to improve retention, particularly for mission-critical occupations;
3. the demographic characteristics of employees choosing to leave the Department;
4. any legislative barriers to improving employee retention; and
5. the number of employees who took the exit survey under subsection (a).
A BILL

To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs, and for other purposes.

MARCH 10, 2017

Reported from the Committee on Veterans' Affairs

Reported from the Committee on Oversight and Government Reform

MARCH 10, 2017

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