

(e) PROHIBITION ON CERTAIN SETTLEMENT AGREEMENT TERMS.—(1) The Secretary may not enter into a settlement agreement relating to an adverse action against a health care professional of the Department if such agreement includes terms that require the Secretary to conceal from the personnel file of the employee a serious medical error or lapse in clinical practice that constitutes a substantial failure to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients.

(2) Nothing in paragraph (1) limits—

(A) the right of an employee to appeal a quality of care determination; or

(B) the rights of an employee under sections 1214 and 1221 of title 5.

(f) TRAINING.—Not less frequently than annually, the Secretary shall provide mandatory training on the following duties to employees of the Department who are responsible for performing such duties:

(1) Compiling, validating, or reviewing the credentials of health care professionals of the Department.

(2) Reviewing the quality of clinical care delivered by health care professionals of the Department.

(3) Taking adverse privileging actions or making determinations relating to other disciplinary actions or employment actions against health care professionals of the Department for reasons relating to the failure of a health care professional to meet generally accepted standards of clinical practice in a manner that presents reasonable concern for the safety of patients.

(4) Making notifications under subsection (d).

(g) DEFINITIONS.—In this section:

(1) The term “controlled substance” has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term “covered health care professional” means an individual employed in a position as a health care professional of the Department, or a contractor of the Department, that requires the individual to be authorized to prescribe, dispense, administer, or conduct research with, controlled substances.

(3) The term “Drug Enforcement Administration registration” means registration with the Drug Enforcement Administration under section 303 of the Controlled Substances Act (21 U.S.C. 823) 302 of the Controlled Substances Act (21 U.S.C. 822) by health care practitioners authorized to dispense, prescribe, administer, or conduct research with, controlled substances.

(4) The term “health care professional of the Department” means an individual working for the Department in a position described in section 7401 of this title, including a contractor of the Department serving in such a position.

(Added Pub. L. 117–328, div. U, title I, §112(a), Dec. 29, 2022, 136 Stat. 5411.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Health Care Quality Improvement Act of 1986, referred to in subsec. (d)(3), is title IV of Pub. L. 99–660,

Nov. 14, 1986, 100 Stat. 3784, which is classified generally to chapter 117 (§1101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 42 and Tables.

#### Statutory Notes and Related Subsidiaries

##### DEADLINE FOR IMPLEMENTATION

Pub. L. 117–328, div. U, title I, §112(c), Dec. 29, 2022, 136 Stat. 5414, provided that: “The Secretary of Veterans Affairs shall commence the implementation of section 7414 of title 38, United States Code, as added by subsection (a), by the following dates:

“(1) With respect to subsections (a), (c)(2), (d), and (f) of such section, not later than 180 days after the date of the enactment of this Act [Dec. 29, 2022].

“(2) With respect to subsection (c)(1) of such section, not later than one year after the date of the enactment of this Act.

“(3) With respect to subsection (b)(2) of such section, not later than 18 months after the date of the enactment of this Act.”

##### AUDITS AND REPORTS

Pub. L. 117–328, div. U, title I, §112(d), Dec. 29, 2022, 136 Stat. 5414, provided that:

“(1) AUDITS.—

“(A) IN GENERAL.—The Secretary of Veterans Affairs shall carry out annual audits of the compliance of medical centers of the Department of Veterans Affairs with the matters required by section 7414 of title 38, United States Code, as added by subsection (a).

“(B) CONDUCT OF AUDITS.—In carrying out audits under subparagraph (A), the Secretary—

“(i) may not authorize the medical center being audited to conduct the audit; and

“(ii) may enter into an agreement with another department or agency of the Federal Government or a nongovernmental entity to conduct such audits.

“(2) REPORTS.—

“(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 29, 2022], and annually thereafter for five years, the Secretary of Veterans Affairs shall submit to the Committee on Veterans Affairs of the Senate and the Committee on Veterans Affairs of the House of Representatives a report on the audits conducted under paragraph (1).

“(B) ELEMENTS.—Each report submitted under subparagraph (A) shall include a summary of the compliance by each medical center of the Department of Veterans Affairs with the matters required by section 7414 of title 38, United States Code, as added by subsection (a).

“(C) INITIAL REPORT.—The Secretary shall include in the first report submitted under subparagraph (A) the following:

“(i) A description of the progress made by the Secretary in implementing section 7414 of title 38, United States Code, as added by subsection (a), including any matters under such section that the Secretary has not fully implemented.

“(ii) An analysis of the feasibility, advisability, and cost of requiring credentialing employees of the Department to be trained by an outside entity and to maintain a credentialing certification.”

#### SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

##### § 7421. Personnel administration: in general

(a) Notwithstanding any law, Executive order, or regulation, the Secretary shall prescribe by regulation the hours and conditions of employment and leaves of absence of employees appointed under any provision of this title in positions in the Veterans Health Administration listed in subsection (b).

(b) Subsection (a) refers to the following positions:

- (1) Physicians.
- (2) Dentists.
- (3) Podiatrists.
- (4) Optometrists.
- (5) Registered nurses.
- (6) Physician assistants.
- (7) Expanded-duty dental auxiliaries.
- (8) Chiropractors.
- (9) Any position for which the employee is appointed under section 7306 or 7401(4) of this title.

(Added Pub. L. 102-40, title II, §202, May 7, 1991, 105 Stat. 200; amended Pub. L. 108-170, title III, §302(g), Dec. 6, 2003, 117 Stat. 2058; Pub. L. 117-168, title IX, §906(c)(1), Aug. 10, 2022, 136 Stat. 1812.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4108(a) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

##### AMENDMENTS

2022—Subsec. (a). Pub. L. 117-168, §906(c)(1)(A), substituted “this title” for “this chapter”.

Subsec. (b)(9). Pub. L. 117-168, §906(c)(1)(B), added par. (9).

2003—Subsec. (b)(8). Pub. L. 108-170 added par. (8).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2003 AMENDMENT

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

##### TREATMENT OF PRIOR LEAVE BALANCES

Pub. L. 117-168, title IX, §906(c)(5), Aug. 10, 2022, 136 Stat. 1813, provided that: “Notwithstanding any other provision of law, the Secretary [of Veterans Affairs] may adjust the leave balance and carryover leave balance of any employee described in section 7421(b)(9) of title 38, United States Code, as amended by paragraph (1)(B), to ensure any leave accrued or carried over before the date of the enactment of this Act [Aug. 10, 2022] remains available to such employee.”

##### PRESERVATION OF EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS AND PENDING ACTIONS

Pub. L. 102-40, title II, §205, May 7, 1991, 105 Stat. 207, provided that:

“(a) EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS.—Any determination under chapter 71 of title 5, United States Code, of a collective bargaining unit within the Veterans Health Administration of the Department of Veterans Affairs, and any recognition under that chapter of an employee labor organization as the exclusive bargaining representative for employees in a collective bargaining unit of the Department of Veterans Affairs, that is in effect on the date of the enactment of this Act [May 7, 1991] shall not be affected by the amendments made by this Act [see Tables for classification] and shall continue in effect in accordance with the terms of such determination or regulation.

“(b) PENDING CASES.—With respect to cases pending on the date of the enactment of this Act [May 7, 1991], or those cases which are brought before the establishment of either an administrative grievance procedure

pursuant to section 7463 of title 38, United States Code (as added by the amendments made by this title), or a negotiated grievance procedure established under a collective bargaining agreement, such cases shall proceed in the same manner as they would have if this Act [see Tables for classification] had not been enacted.”

#### § 7422. Collective bargaining

(a) Except as otherwise specifically provided in this title, the authority of the Secretary to prescribe regulations under section 7421 of this title is subject to the right of Federal employees to engage in collective bargaining with respect to conditions of employment through representatives chosen by them in accordance with chapter 71 of title 5 (relating to labor-management relations).

(b) Such collective bargaining (and any grievance procedures provided under a collective bargaining agreement) in the case of employees described in section 7421(b) of this title may not cover, or have any applicability to, any matter or question concerning or arising out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title.

(c) For purposes of this section, the term “professional conduct or competence” means any of the following:

- (1) Direct patient care.
- (2) Clinical competence.

(d) An issue of whether a matter or question concerns or arises out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title shall be decided by the Secretary and is not itself subject to collective bargaining and may not be reviewed by any other agency.

(e) A petition for judicial review or petition for enforcement under section 7123 of title 5 in any case involving employees described in section 7421(b) of this title or arising out of the applicability of chapter 71 of title 5 to employees in those positions, shall be taken only in the United States Court of Appeals for the District of Columbia Circuit.

(Added Pub. L. 102-40, title II, §202, May 7, 1991, 105 Stat. 200.)

#### § 7423. Personnel administration: full-time employees

(a)(1) Except as provided in paragraph (2), the hours of employment in carrying out responsibilities under this title of any employee who is appointed in the Administration under any provision of this chapter on a full-time basis in a position listed in section 7421(b) of this title (other than an intern or resident appointed pursuant to section 7406 of this title) and who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title shall consist of not less than 80 hours in a biweekly pay period (as that term is used in section 5504 of title 5).

(2)(A) Upon the advance written request of a covered physician, the Secretary may modify the hours of employment for a physician appointed in the Administration under any provi-

sion of this chapter on a full-time basis to be more or less than 80 hours in a biweekly pay period, subject to the requirements in subparagraph (B). For the purpose of determining pay, such a physician shall be deemed to have a biweekly schedule of 80 hours of employment.

(B) A physician with an irregular work schedule established under subparagraph (A) shall be obligated to account for at least 2,080 hours of employment (through performance of work or use of leave or paid time off) in a calendar year.

(C) The Secretary may prescribe regulations to implement this paragraph, including regulations making adjustments to address the annual hours requirement for physicians who are covered by this paragraph for only a portion of a calendar year.

(D) The Secretary may exclude from the requirements of paragraph (1) employees hired under section 7306 or 7401(4) of this title or for a position described in section 7401(1) of this title that the Secretary has determined is of equivalent rank to a Senior Executive Service position (as such term is defined in section 3132(a) of title 5).

(b) A person covered by subsection (a) may not do any of the following:

(1) Teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with such person's responsibilities under this title.

(2) Accept payment under any insurance or assistance program established under title XVIII or XIX of the Social Security Act or under chapter 55 of title 10 for professional services rendered by such person while carrying out such person's responsibilities under this title.

(3) Accept from any source, with respect to any travel performed by such person in the course of carrying out such person's responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5.

(4) Request or permit any individual or organization to pay, on such person's behalf for insurance insuring such person against malpractice claims arising in the course of carrying out such person's responsibilities under this title or for such person's dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of such person's remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title.

(5) Perform, in the course of carrying out such person's responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for such person's personal benefit, or both.

(c) In the case of any fund or account described in subsection (b)(5) that was established before September 1, 1973—

(1) the affiliated institution shall submit semiannually an accounting to the Secretary and to the Comptroller General of the United

States with respect to such fund or account and shall maintain such fund or account subject to full public disclosure and audit by the Secretary and the Comptroller General for a period of three years or for such longer period as the Secretary shall prescribe, and

(2) no person in a position specified in paragraph (1)(B) may receive any cash from amounts deposited in such fund or account derived from services performed before that date.

(d) As used in this section:

(1) The term "affiliated institution" means a medical school or other institution of higher learning with which the Secretary has a contract or agreement as referred to in section 7313 of this title for the training or education of health personnel.

(2) The term "remuneration" means the receipt of any amount of monetary benefit from any non-Department source in payment for carrying out any professional responsibilities.

(e)(1) The Secretary shall establish a leave transfer program for the benefit of health-care professionals in positions listed in section 7421(b) of this title. The Secretary may also establish a leave bank program for the benefit of such health-care professionals.

(2) To the maximum extent feasible—

(A) the leave transfer program shall provide the same or similar requirements and conditions as are provided for the program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5; and

(B) any leave bank program established pursuant to paragraph (1) shall be consistent with the requirements and conditions provided for agency leave bank programs in subchapter IV of such chapter.

(3) Participation by a health-care professional in the leave transfer program established pursuant to paragraph (1), and in any leave bank program established pursuant to such paragraph, shall be voluntary. The Secretary may not require any health-care professional to participate in such a program.

(4)(A) The Secretary and the Director of the Office of Personnel Management may enter into an agreement that permits health-care professionals referred to in paragraph (1) to participate in the leave transfer program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5 or in any leave bank program established for other employees of the Department pursuant to subchapter IV of chapter 63 of title 5, or both.

(B) Participation of such health-care professionals in a leave transfer program or a leave bank program pursuant to an agreement entered into under subparagraph (A) shall be subject to such requirements and conditions as may be prescribed in such agreement.

(5) The Secretary is not required to establish a leave transfer program for any personnel permitted to participate in a leave transfer program pursuant to an agreement referred to in paragraph (4).

(f) The Secretary may purchase promotional items of nominal value for use in the recruit-

ment of individuals for employment under this chapter. The Secretary shall prescribe guidelines for the administration of the preceding sentence.

(Added and amended Pub. L. 102-40, title II, § 202, title IV, § 401(b)(3)(A), May 7, 1991, 105 Stat. 201, 230; Pub. L. 102-405, title II, § 203, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1983, 1984; Pub. L. 104-262, title III, § 347, Oct. 9, 1996, 110 Stat. 3208; Pub. L. 114-315, title VI, § 614, Dec. 16, 2016, 130 Stat. 1577; Pub. L. 117-168, title IX, § 906(c)(2), Aug. 10, 2022, 136 Stat. 1812.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4108(a), (c), and (e) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

##### AMENDMENTS

2022—Subsec. (a)(2)(D). Pub. L. 117-168, § 906(c)(2)(A), added subpar. (D).

Subsec. (e)(1). Pub. L. 117-168, § 906(c)(2)(B), substituted “7421(b)” for “7401(1)”.

2016—Subsec. (a). Pub. L. 114-315 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), the hours” for “The hours”, and added par. (2).

1996—Subsec. (b). Pub. L. 104-262, § 347(a), redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out former par. (1) which read as follows: “Assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Department facility, except in those cases where the person, upon request and with the approval of the Under Secretary for Health, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed 180 calendar days, which may be extended by the Under Secretary for Health for additional periods not to exceed 180 calendar days each.”

Subsec. (c). Pub. L. 104-262, § 347(b), substituted “subsection (b)(5)” for “subsection (b)(6)” in introductory provisions.

1992—Subsec. (b)(1). Pub. L. 102-405, § 302(c)(1), substituted “Under Secretary for Health” for “Chief Medical Director” in two places.

Subsec. (f). Pub. L. 102-405, § 203, added subsec. (f).

1991—Subsec. (e). Pub. L. 102-40, § 401(b)(3)(A), added subsec. (e).

#### Statutory Notes and Related Subsidiaries

##### ESTABLISHMENT OF LEAVE BANK PROGRAM

For provision authorizing the establishment of a leave bank program for health-care professional covered under subsec. (e) of former section 4108 of this title [now covered by subsec. (e) of this section] similar to the leave bank program for Federal civilian employees in reserves who were activated during Persian Gulf War, see section 361 of Pub. L. 102-25, set out as a Leave Bank for Federal Civilian Employees in Reserves Who Were Activated During Persian Gulf War note under section 6361 of Title 5, Government Organization and Employees.

#### § 7424. Travel expenses of certain employees

(a) The Secretary may pay the expenses (other than membership fees) of persons described in sections 7306 and 7401(1) of this title (including persons in positions described in section 7401(1) of this title who are appointed on a temporary full-time basis or a part-time basis under section 7405 of this title) who are detailed by the Under Secretary for Health to attend meetings of associations for the promotion of medical and related science.

(b)(1) The Secretary may prescribe regulations establishing conditions under which officers and employees of the Administration who are nationally recognized principal investigators in medical research may be permitted to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel and such reasonable subsistence expenses as are approved by the Secretary pursuant to such regulations—

(A) in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Department; or

(B) in connection with acceptance of significant awards or with activity related thereto concerned with functions or activities of the Department.

(2) Any such payment may be retained by such officers and employees to cover the cost of such expenses or shall be deposited to the credit of the appropriation from which the cost of such expenses is paid, as may be provided in such regulations.

(Added Pub. L. 102-40, title IV, § 401(b)(3)(B), May 7, 1991, 105 Stat. 230; amended Pub. L. 102-405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4108(d) and 4113 of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

##### AMENDMENTS

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

#### § 7425. Employees: laws not applicable

(a) Physicians, dentists, nurses, and other health-care professionals employed by the Administration and appointed under section 7306, 7401(1), 7405, or 7406 of this chapter are not subject to the following provisions of law:

(1) Section 413 of the Civil Service Reform Act of 1978.

(2) Subchapter II of chapter 31 of title 5.

(3) Subchapter VIII of chapter 33 of title 5.

(4) Subchapter V of chapter 35 of title 5.

(5) Subchapter II of chapter 43 of title 5.

(6) Section 4507 of title 5.

(7) Subchapter VIII of chapter 53 of title 5.

(8) Subchapter V of chapter 75 of title 5.

(b) Except as provided in subsection (c), and notwithstanding any other provision of law, no provision of title 5 or any other law pertaining

to the civil service system which is inconsistent with any provision of section 7306 of this title or this chapter shall be considered to supersede, override, or otherwise modify such provision of that section or this chapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this chapter, or such provision to be superseded, overridden, or otherwise modified.

(c) Notwithstanding any other provision of this subchapter, the Administration shall provide to individuals appointed to any position described in section 7421(b) who are employed for compensation by the Administration, family and medical leave in the same manner and subject to the same limitations to the maximum extent practicable, as family and medical leave is provided under subchapter V of chapter 63 of title 5 to employees, as defined in section 6381(1) of such title.

(Added Pub. L. 102-40, title IV, § 401(b)(3)(B), May 7, 1991, 105 Stat. 231; amended Pub. L. 116-283, div. A, title XI, § 1103(d)(1), Jan. 1, 2021, 134 Stat. 3887.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 413 of the Civil Service Reform Act of 1978, referred to in subsec. (a)(1), is section 413 of Pub. L. 95-454, title IV, Oct. 13, 1978, 92 Stat. 1175, which is set out as a note under section 3133 of Title 5, Government Organization and Employees.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4101(e) and 4119 of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

#### AMENDMENTS

2021—Subsec. (b). Pub. L. 116-283, § 1103(d)(1)(A), substituted “Except as provided in subsection (c), and notwithstanding” for “Notwithstanding”.

Subsec. (c). Pub. L. 116-283, § 1103(d)(1)(B), added subsec. (c).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. A, title XI, § 1103(d)(2), Jan. 1, 2021, 134 Stat. 3888, provided that: “The amendments made by paragraph (1) [amending this section] shall apply with respect to any event for which leave may be taken under subchapter V of chapter 63 of title 5, United States Code, occurring on or after October 1, 2020.”

#### DEPARTMENT OF VETERANS AFFAIRS: INCLUDING MILITARY SERVICE IN DETERMINING FAMILY AND MEDICAL LEAVE ELIGIBILITY

Pub. L. 118-31, div. A, title XI, § 1114(c), Dec. 22, 2023, 137 Stat. 432, provided that: “Not later than 6 months after the date of enactment of this Act [Dec. 22, 2023], the Secretary of Veterans Affairs shall modify the family and medical leave program provided by operation of section 7425(c) of title 38, United States Code, to conform with the requirements of the amendment made by subsection (a) [amending section 6381 of Title 5, Government Organization and Employees] with respect to military service in section 6381(1)(B)(ii) of title 5, United States Code, as added by such subsection.”

### § 7426. Retirement rights

(a) Except as provided in subsection (b), persons appointed to the Administration shall be subject to the provisions of and entitled to benefits under subchapter III of chapter 83 of title 5 or subchapter II of chapter 84 of title 5, whichever is applicable.

(b)(1) In computing the annuity under subchapter III of chapter 83, or subchapter II of chapter 84, of title 5 of an individual who retires under such subchapter (other than under section 8337 or 8451 of such title) after December 31, 1981, and who served at any time on a less-than-full-time basis in a position in the Administration to which such individual was appointed under subchapter I—

(A) for the purpose of determining such individual's average pay, as defined by section 8331(4) or 8401(3) of title 5, whichever is applicable, the annual rate of basic pay for full-time service shall be deemed to be such individual's rate of basic pay; and

(B) the amount of such individual's annuity as computed under section 8339 or 8415 of title 5 (before application of any reduction required by subsection (i) of section 8339) shall be multiplied by the fraction equal to the ratio that that individual's total full-time equivalent service bears to that individual's creditable service as determined under section 8332 or 8411 of title 5, whichever is applicable.

(2) For the purposes of paragraph (1)(B), an individual's full-time equivalent service is the individual's creditable service as determined under section 8332 or 8411 of title 5, whichever is applicable, except that any period of service of such individual served on a less-than-full-time basis shall be prorated based on the fraction such service bears to full-time service. For the purposes of the preceding sentence, full-time service shall be considered to be 80 hours of service per biweekly pay period.

(3) A survivor annuity computed under section 8341, or subchapter IV of chapter 84, of title 5 based on the service of an individual described in paragraph (1) shall be computed based upon such individual's annuity as determined in accordance with such paragraph.

(c) The provisions of subsection (b) shall not apply to the part-time service before April 7, 1986, of a registered nurse, physician assistant, or expanded-function dental auxiliary. In computing the annuity under the applicable provision of law specified in that subsection of an individual covered by the preceding sentence, the service described in that sentence shall be credited as full-time service.

(Added Pub. L. 102-40, title IV, § 401(b)(3)(B), May 7, 1991, 105 Stat. 231; amended Pub. L. 102-585, title V, § 522, Nov. 4, 1992, 106 Stat. 4959; Pub. L. 106-398, § 1 [[div. A], title X, § 1087(g)(5)], Oct. 30, 2000, 114 Stat. 1654, 1654A-294; Pub. L. 107-135, title I, § 132, Jan. 23, 2002, 115 Stat. 2454.)

### Editorial Notes

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4107(i) and 4109 of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

## AMENDMENTS

2002—Subsec. (c). Pub. L. 107-135 added subsec. (c).  
 2000—Subsec. (c). Pub. L. 106-398 struck out subsec. (c) which read as follows: “The Secretary may authorize an exception to the restrictions in subsections (a), (b), and (c) of section 5532 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates in physician positions, and registered nurse positions, which otherwise cannot be readily met. The authority of the Secretary under the preceding sentence with respect to registered-nurse positions expires on December 31, 1994.”

1992—Subsec. (c). Pub. L. 102-585 substituted “December 31, 1994” for “September 30, 1992”.

### SUBCHAPTER III—PAY FOR PHYSICIANS, PODIATRISTS, AND DENTISTS

#### Editorial Notes

##### CODIFICATION

This subchapter was originally added by Pub. L. 102-40, May 7, 1991, 105 Stat. 187, and amended by Pub. L. 102-405, Oct. 9, 1992, 106 Stat. 1972; Pub. L. 104-262, Oct. 9, 1996, 110 Stat. 3177; Pub. L. 103-446, Nov. 2, 1994, 108 Stat. 4645; Pub. L. 106-419, Nov. 1, 2000, 114 Stat. 1822. This subchapter is shown here, however, as having been added by Pub. L. 108-445, §3(b), Dec. 3, 2004, 118 Stat. 2636, without reference to those intervening amendments because of the general amendment of this subchapter by Pub. L. 108-445.

## AMENDMENTS

2019—Pub. L. 116-12, §1(b)(3), Apr. 8, 2019, 133 Stat. 845, inserted “, PODIATRISTS,” after “PHYSICIANS” in subchapter heading.

2004—Pub. L. 108-445, §3(b), Dec. 3, 2004, 118 Stat. 2636, substituted “PAY FOR PHYSICIANS AND DENTISTS” for “SPECIAL PAY FOR PHYSICIANS AND DENTISTS” in subchapter heading.

#### § 7431. Pay

(a) **ELEMENTS OF PAY.**—Pay of physicians, podiatrists, and dentists in the Veterans Health Administration shall consist of three elements as follows:

- (1) Base pay as provided for under subsection (b).
- (2) Market pay as provided for under subsection (c).
- (3) Performance pay as provided under subsection (d).

(b) **BASE PAY.**—One element of pay for physicians, podiatrists, and dentists shall be base pay. Base pay shall meet the following requirements:

- (1) Each physician, podiatrist, and dentist is entitled to base pay determined under the Physician, Podiatrist, and Dentist Base and Longevity Pay Schedule.
- (2) The Physician, Podiatrist, and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.
- (3) The rate of base pay payable to a physician, podiatrist, or dentist is based on the total number of the years of the service of the physician, podiatrist, or dentist in the Veterans Health Administration as follows:

| <b>For a physician, podiatrist, or dentist with total service of:</b> | <b>The rate of base pay is the rate payable for:</b> |
|---|--|
| two years or less .....   | step 1   |

#### **For a physician, podiatrist, or dentist with total service of:**

#### **The rate of base pay is the rate payable for:**

|   |          |
|---|----------|
| 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. |

(4) At the same time as rates of basic pay are increased for a year under section 5303 of title 5, the Secretary shall increase the amount of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

(5) The non-foreign cost of living adjustment allowance authorized under section 5941 of title 5 for physicians, podiatrists, and dentists whose pay is set under this section shall be determined as a percentage of base pay only.

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

- (1) Each physician, podiatrist, and dentist is eligible for market pay.
- (2) Market pay shall consist of pay intended to reflect the recruitment and retention needs for the specialty or assignment (as defined by the Secretary) of a particular physician, podiatrist, or dentist in a facility of the Department of Veterans Affairs.
- (3) The annual amount of the market pay payable to a physician, podiatrist, or dentist shall be determined by the Secretary on a case-by-case basis.
- (4) The determination of the amount of market pay of a physician, podiatrist, or dentist shall take into account—

- (A) the level of experience of the physician, podiatrist, or dentist in the specialty or assignment of the physician, podiatrist, or dentist;
- (B) the need for the specialty or assignment of the physician, podiatrist, or dentist at the medical facility of the Department concerned;
- (C) the health care labor market for the specialty or assignment of the physician, podiatrist, or dentist, which may cover any ge-