

of instruction and not more than 5 hours of supervised study" for "minimum of twenty-five hours per week net of instruction" and "18 hours per week" for "22 hours per week".

1976—Subsec. (a)(1). Pub. L. 94-502, §509(a)(1), provided that, if a course was approved pursuant to section 1775 of this title, then 27 hours of attendance per week with no more than 2½ hours of rest period per week would be considered full time.

Subsec. (a)(2). Pub. L. 94-502, §509(a)(2), provided that, if a course was approved pursuant to section 1775 of this title, then 22 hours of instruction per week with a ten minute interval between hours would be considered full time.

1974—Subsec. (a). Pub. L. 93-508 in cl. (1) substituted "basis, not leading to a standard college degree involving" for "basis below the college level involving"; in cl. (2) substituted "basis, not leading to a standard college degree, in which" for "basis below the college level in which"; in cl. (6) substituted "not leading to a standard college degree" for "below the college level"; and following cl. (6), inserted provisions that notwithstanding cls. (1) and (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis with special requirements for the academic, laboratory, and shop portions of such courses, and that in no event such course be considered a full-time course unless twenty-two hours per week of attendance is required.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-252 effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as a note under section 16163 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-568 applicable to enrollments in courses beginning on or after July 1, 1993, see section 316(c) of Pub. L. 102-568, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-322, title III, §321(b), May 20, 1988, 102 Stat. 535, provided that: "The amendments made by subsection (a) [amending this section] shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act [May 20, 1988]."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 345 of Pub. L. 96-466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96-466, set out as a note under section 3452 of this title.

Amendment by section 601(f) of Pub. L. 96-466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96-466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective first day of first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as a note under section 3452 of this title.

§ 3689. Approval requirements for licensing and certification testing

(a) IN GENERAL.—(1) No payment may be made for a licensing or certification test described in section 3452(b) or 3501(a)(5) of this title unless the test is deemed approved by section 3672(b)(2)(B) of this title or the Secretary determines that the requirements of this section have been met with respect to such test and the organization or entity offering the test. The requirements of approval for tests and organizations or entities offering tests shall be in accordance with the provisions of this chapter and chapters 30, 32, 33, 34, and 35 of this title and with regulations prescribed by the Secretary to carry out this section.

(2) To the extent that the Secretary determines practicable, State approving agencies may, in lieu of the Secretary, approve licensing and certification tests, and organizations and entities offering such tests, under this section.

(b) REQUIREMENTS FOR TESTS.—(1) Subject to paragraph (2), a licensing or certification test is approved for purposes of this section only if—

(A) the test is required under Federal, State, or local law or regulation for an individual to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession; or

(B) the Secretary determines that the test is generally accepted, in accordance with relevant government, business, or industry standards, employment policies, or hiring practices, as attesting to a level of knowledge or skill required to qualify to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession.

(2) A licensing or certification test offered by a State, or a political subdivision of a State, is deemed approved by the Secretary for purposes of this section.

(c) REQUIREMENTS FOR ORGANIZATIONS OR ENTITIES OFFERING TESTS.—(1) Each organization or entity that is not an entity of the United States, a State, or political subdivision of a State, that offers a licensing or certification test for which payment may be made under chapter 30, 32, 33, 34, or 35 of this title and that meets the following requirements, shall be approved by the Secretary to offer such test:

(A) The organization or entity certifies to the Secretary that the licensing or certification test offered by the organization or entity is generally accepted, in accordance with relevant government, business, or industry standards, employment policies, or hiring practices, as attesting to a level of knowledge or skill required to qualify to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession.

(B) The organization or entity is licensed, chartered, or incorporated in a State and has offered such test, or a test to certify or license in a similar or related occupation, for a minimum of two years before the date on which the organization or entity first submits to the Secretary an application for approval under this section.

(C) The organization or entity employs, or consults with, individuals with expertise or substantial experience with respect to all areas of knowledge or skill that are measured by the test and that are required for the license or certificate issued.

(D) The organization or entity has no direct financial interest in—

(i) the outcome of the test; or

(ii) organizations that provide the education or training of candidates for licenses or certificates required for vocations or professions.

(E) The organization or entity maintains appropriate records with respect to all candidates who take the test for a period prescribed by the Secretary, but in no case for a period of less than three years.

(F)(i) The organization or entity promptly issues notice of the results of the test to the candidate for the license or certificate.

(ii) The organization or entity has in place a process to review complaints submitted against the organization or entity with respect to the test or the process for obtaining a license or certificate required for vocations or professions.

(G) The organization or entity furnishes to the Secretary such information with respect to the test as the Secretary requires to determine whether payment may be made for the test under chapter 30, 32, 33, 34, or 35 of this title, including personal identifying information, fee payment, and test results. Such information shall be furnished in the form prescribed by the Secretary.

(H) The organization or entity furnishes to the Secretary the following information:

(i) A description of the licensing or certification test offered by the organization or entity, including the purpose of the test, the vocational, professional, governmental, and other entities that recognize the test, and the license or certificate issued upon successful completion of the test.

(ii) The requirements to take the test, including the amount of the fee charged for the test and any prerequisite education, training, skills, or other certification.

(iii) The period for which the license or certificate awarded upon successful completion of the test is valid, and the requirements for maintaining or renewing the license or certificate.

(I) Upon request of the Secretary, the organization or entity furnishes such information to the Secretary that the Secretary determines necessary to perform an assessment of—

(i) the test conducted by the organization or entity as compared to the level of knowledge or skills that a license or certificate attests; and

(ii) the applicability of the test over such periods of time as the Secretary determines appropriate.

(2) With respect to each organization or entity that is an entity of the United States, a State, or political subdivision of a State, that offers a licensing or certification test for which payment may be made under chapters 30, 32, 34, or 35 of

this title, the following provisions of paragraph (1) shall apply to the entity: subparagraphs (E), (F), (G), and (H).

(3) Subparagraph (G) of paragraph (1) shall not apply with respect to an educational institution located in a foreign country.

(d) ADMINISTRATION.—Except as otherwise specifically provided in this section or chapter 30, 32, 33, 34, or 35 of this title, in implementing this section and making payment under any such chapter for a licensing or certification test, the test is deemed to be a “course” and the organization or entity that offers such test is deemed to be an “institution” or “educational institution”, respectively, as those terms are applied under and for purposes of sections 3671, 3673, 3674, 3678, 3679, 3681, 3682, 3683, 3685, 3690, and 3696 of this title.

(e) PROFESSIONAL CERTIFICATION AND LICENSURE ADVISORY COMMITTEE.—(1) There is established within the Department a committee to be known as the Professional Certification and Licensure Advisory Committee (hereinafter in this section referred to as the “Committee”).

(2) The Committee shall advise the Secretary with respect to the requirements of organizations or entities offering licensing and certification tests to individuals for which payment for such tests may be made under chapter 30, 32, 33, 34, or 35 of this title, and such other related issues as the Committee determines to be appropriate.

(3)(A) The Secretary shall appoint seven individuals with expertise in matters relating to licensing and certification tests to serve as members of the Committee.

(B) The Secretary of Labor and the Secretary of Defense shall serve as ex officio members of the Committee.

(C) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(4)(A) The Secretary shall appoint the chairman of the Committee.

(B) The Committee shall meet at the call of the chairman.

(5) The Committee shall terminate December 31, 2006.

(Added Pub. L. 106-419, title I, §122(c)(1), Nov. 1, 2000, 114 Stat. 1835; amended Pub. L. 107-330, title III, §308(d), Dec. 6, 2002, 116 Stat. 2828; Pub. L. 110-252, title V, §5003(b)(2)(A)(iii), June 30, 2008, 122 Stat. 2375; Pub. L. 111-377, title II, §203(a)(2)(C), Jan. 4, 2011, 124 Stat. 4125; Pub. L. 117-76, §3(c)(1), Dec. 21, 2021, 135 Stat. 1518.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3689, added Pub. L. 92-540, title III, §316(2), Oct. 24, 1972, 86 Stat. 1087, §1789; amended Pub. L. 94-502, title V, §509(b), Oct. 15, 1976, 90 Stat. 2401; Pub. L. 95-202, title III, §305(a)(1), Nov. 23, 1977, 91 Stat. 1442; Pub. L. 96-466, title VI, §601(g), Oct. 17, 1980, 94 Stat. 2208; Pub. L. 101-237, title IV, §§418, 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2087, 2092; renumbered §3689, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406, related to approval of enrollment in courses in operation for less than two years, prior to repeal by Pub. L. 104-275, title I, §103(a)(1)(A), Oct. 9, 1996, 110 Stat. 3326.

AMENDMENTS

2021—Subsec. (c)(3). Pub. L. 117-76 added par. (3).

2011—Subsec. (a)(1). Pub. L. 111-377 inserted “the test is deemed approved by section 3672(b)(2)(B) of this title or” after “unless”.

2008—Subsecs. (a)(1), (c)(1), (d), (e)(2). Pub. L. 110-252 inserted “33,” after “32,” wherever appearing.

2002—Subsec. (c)(1)(B). Pub. L. 107-330 substituted “such test, or a test to certify or license in a similar or related occupation,” for “the test”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-377 effective Aug. 1, 2011, see section 203(e) of Pub. L. 111-377, set out as a note under section 3034 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-252 effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as a note under section 16163 of Title 10, Armed Forces.

EFFECTIVE DATE

Section effective Mar. 1, 2001, and applicable with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date, see section 122(d) of Pub. L. 106-419, set out as an Effective Date of 2000 Amendment note under section 3032 of this title.

§ 3690. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

(a) OVERCHARGES BY EDUCATIONAL INSTITUTIONS.—If the Secretary finds that an educational institution has—

(1) charged or received from any eligible veteran or eligible person pursuing a program of education under this chapter or chapter 34 or 35 of this title any amount for any course in excess of the charges for tuition and fees which such institution requires similarly circumstanced nonveterans not receiving assistance under such chapters who are enrolled in the same course to pay, or

(2) instituted, after October 24, 1972, a policy or practice with respect to the payment of tuition, fees, or other charges in the case of eligible veterans and the Secretary finds that the effect of such policy or practice substantially denies to veterans the benefits of the advance allowances under such section,

the Secretary may disapprove such educational institution for the enrollment of any eligible veteran or eligible person not already enrolled therein under this chapter or chapter 31, 34, or 35 of this title.

(b) DISCONTINUANCE OF ALLOWANCES.—(1) The Secretary may discontinue the educational assistance allowance of any eligible veteran or eligible person if the Secretary finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if the Secretary finds that the educational institution offering such program or course has violated any provision of this chapter or chapter 34 or 35 of this title, or fails to meet any of the requirements of such chapters.

(2) Except as provided in paragraph (3) of this subsection, any action by the Secretary under paragraph (1) of this subsection to discontinue (including to suspend) assistance provided to

any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon evidence that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Secretary so discontinues any such assistance, the Secretary shall concurrently provide written notice to such veteran or person of such discontinuance and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.

(3)(A) The Secretary may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Secretary has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 30, 32, 33, 34, or 35 of this title.

(B) Action may be taken under subparagraph (A) of this paragraph only after—

(i) the Secretary provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

(ii) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the Secretary determines is reasonable and appropriate) take corrective action; and

(iii) the Secretary, not less than 30 days before taking action under such subparagraph, provides to each eligible veteran and eligible person already enrolled in such course written notice of the Secretary's intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer period as the Secretary has determined is reasonable and appropriate), and of the date on which the Secretary intends to take action under such subparagraph.

(c) EXAMINATION OF RECORDS.—(1) Except as provided in paragraph (2), notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance under this chapter or chapter 31, 32, 34, or 35 of this title, as well as the records of other students which the Secretary determines necessary to ascertain institutional compliance with the requirements of such chapters, shall be available for examination by duly authorized representatives of the Government.

(2) Paragraph (1) does not apply to the records and accounts—

(A) of an educational institution located in a foreign country; and

(B) that pertain to an individual who is not receiving educational assistance under this chapter.