

118TH CONGRESS
2D SESSION

H. R. 10142

To improve the workforce of the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2024

Mr. HARDER of California introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To improve the workforce of the Department of Veterans Affairs, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 This Act may be cited as the “Department of Vet-
5 erans Affairs Compensation Optimization and Moderniza-
6 tion for Physicians to Ensure Treatment Excellence and
7 Service Act” or the “VA COMPETES Act”.

1 **SEC. 2. MODIFICATION OF PAY LIMITATION FOR PHYSI-**
2 **CIANS, PODIATRISTS, OPTOMETRISTS, AND**
3 **DENTISTS OF DEPARTMENT OF VETERANS**
4 **AFFAIRS.**

5 (a) MARKET PAY.—

6 (1) IN GENERAL.—Section 7431 of title 38,
7 United States Code, is amended—

8 (A) by striking subsections (a), (b), and

9 (d);

10 (B) by redesignating subsections (c), (e),

11 (f), (g), and (h) as subsections (a), (b), (c), (d),

12 and (e), respectively;

13 (C) by inserting “optometrists,” after “po-

14 diatrists,” each place it appears;

15 (D) by inserting “optometrist,” after “po-

16 diatrist,” each place it appears;

17 (E) in subsection (a), as so redesignated—

18 (i) by striking the matter preceding

19 paragraph (1) and inserting “Pay of physi-

20 cians, podiatrists, optometrists, and den-

21 tists in the Veterans Health Administra-

22 tion shall consist of market pay, which

23 shall meet the following requirements:”;

24 (ii) in paragraph (4)—

25 (I) in subparagraph (E), by

26 striking “and” at the end;

1 (II) by redesignating subpara-
2 graph (F) as subparagraph (I); and

3 (III) by inserting after subpara-
4 graph (E) the following new subpara-
5 graphs:

6 “(F) the performance of the physician, po-
7 diatrist, optometrist, or dentist based on spe-
8 cific criteria prescribed by the Secretary, includ-
9 ing the parameters to determine the relevant
10 timeframe of performance;

11 “(G) the annual pay adjustments under
12 section 5303 of title 5;

13 “(H) the nonforeign cost of living adjust-
14 ment allowance authorized under section 5941
15 of title 5; and”;

16 (iii) in paragraph (5), by adding at
17 the end the following new sentence: “Such
18 a notice shall include a statement of
19 whether the market pay will increase, de-
20 crease, or remain unchanged following
21 such evaluation.”; and

22 (iv) by adding at the end the following
23 new paragraphs:

1 “(7) The Secretary shall ensure that each phy-
2 sician, podiatrist, optometrist, and dentist in the
3 Veterans Health Administration is—

4 “(A) advised, on an annual basis, of the
5 criteria referred to in paragraph (4)(F);

6 “(B) evaluated in accordance with such
7 criteria; and

8 “(C) compensated in accordance with—

9 “(i) applicable assignment and pay
10 levels, subject to relevant pay limitations;
11 and

12 “(ii) the extent to which such criteria
13 are met.

14 “(8) Not later than 120 days after the last day
15 of each fiscal year, the Secretary shall submit to the
16 Committees on Veterans’ Affairs of the Senate and
17 the House of Representatives a report covering that
18 fiscal year that includes the following:

19 “(A) A list of each medical specialty clinic
20 that conducted an evaluation of market pay
21 during the fiscal year covered by the report.

22 “(B) For each evaluation described in sub-
23 paragraph (A)—

24 “(i) a list of occupations for which
25 pay was evaluated, disaggregated by med-

1 ical specialty, number of authorized full-
2 time employees, and onsite full-time em-
3 ployees as of the date of the evaluation;

4 “(ii) the date such evaluation was
5 completed;

6 “(iii) whether a market pay adjust-
7 ment was made following the evaluation
8 per each occupation and specialty evalu-
9 ated;

10 “(iv) whether applicable employees
11 were notified of such evaluation;

12 “(v) whether local labor partners were
13 notified of such evaluation; and

14 “(vi) in the case of an evaluation that
15 resulted in an adjustment of pay—

16 “(I) the date such adjustment—

17 “(aa) was implemented; and

18 “(bb) became effective; and

19 “(II) the percentage of employees
20 of each occupation and specialty for
21 which pay was adjusted pursuant to
22 such evaluation.

23 “(C) A list of facilities of the Department
24 that did not conduct an evaluation of market

1 pay, pursuant to paragraph (5), during the fis-
2 cal year covered by the report.”;

3 (F) in subsection (b), as so redesignated—

4 (i) in the heading, by striking
5 “TOTAL” and inserting “MARKET”;

6 (ii) in paragraph (1)(A)—

7 (I) by striking “annual” each
8 place it appears and inserting “mar-
9 ket”; and

10 (II) by inserting “, optom-
11 etrists,” after “podiatrists”;

12 (iii) by striking paragraphs (2) and
13 (3);

14 (iv) by redesignating paragraph (4) as
15 paragraph (2);

16 (v) in paragraph (2), as so redesi-
17 gnated—

18 (I) by striking “Except as pro-
19 vided in sections 7404A(c) and
20 7410(a)(2) of this title, in no case
21 may the total amount of compensa-
22 tion” and inserting “The total amount
23 of market pay under subsection (a)”;
24 and

1 (II) by inserting “not” before
2 “exceed”; and
3 (vi) by adding at the end the following
4 new paragraphs:

5 “(3) Notwithstanding any compensation or pay limi-
6 tations under this title or title 5, the Secretary may au-
7 thorize the Under Secretary for Health to pay physicians,
8 podiatrists, optometrists, and dentists—

9 “(A) awards authorized under this title;

10 “(B) advance payments, recruitment or reloca-
11 tion bonuses, and retention allowances authorized
12 under section 7410(a) of this title or as otherwise
13 provided by law;

14 “(C) incentives or bonuses under section 706 of
15 this title or as otherwise provided by law; and

16 “(D) earnings from fee-basis appointments
17 under section 7405(a)(2) of this title.

18 “(4)(A) The Secretary may waive any pay limitation
19 described in this section (including tier limitations) as the
20 Secretary determines necessary for the recruitment or re-
21 tention of critical health care personnel that the Secretary
22 determines would provide direct patient care.

23 “(B) Priority for such waivers shall be given for posi-
24 tions, locations, and care provided through contracts at
25 a high cost to the Department.

1 “(C) During the period the authority under subpara-
2 graph (A) is effective, the Secretary may not issue more
3 than 300 waivers under such subparagraph.

4 “(D) The Secretary may prescribe requirements, limi-
5 tations, and other considerations for waivers under such
6 subparagraph.

7 “(E) Not later than 180 days after the date of enact-
8 ment of the VA COMPETES Act, and annually there-
9 after, the Secretary shall submit to the Committees on
10 Veterans’ Affairs of the Senate and the House of Rep-
11 resentatives a report that includes—

12 “(i) any updates to the requirements, limita-
13 tions, and considerations prescribed under subpara-
14 graph (B) during the period covered by the report;

15 “(ii) a description of the findings of each re-
16 view, if any, conducted pursuant to subparagraph
17 (G);

18 “(iii) a description of each waiver under sub-
19 paragraph (A) in effect as of the date of the submis-
20 sion of the report, including the—

21 “(I) duty location, position, specialty, mar-
22 ket, and performance considerations for the
23 waiver; and

1 “(II) impact, if any, of the waiver on con-
2 tracted care purchased by the Department for
3 the region; and

4 “(iv) a list of any separation actions during the
5 period covered by the report with respect to a posi-
6 tion for which a waiver under subparagraph (A) is
7 in effect.

8 “(F) The authority of the Secretary under subpara-
9 graph (A) shall terminate on the date that is five years
10 after the date of enactment of the VA COMPETES Act.

11 “(G) The Chief Human Capital Officer of the De-
12 partment, the Chief Financial Officer of the Department,
13 and the Office of the General Counsel of the Department
14 shall review any waiver issued pursuant to subparagraph
15 (A).;”;

16 (G) in subsection (e), as so redesignated,
17 by striking “subsections (a) and (b) of and”;

18 (H) in subsection (d), as so redesignated—

19 (i) in paragraph (1), by striking “sub-
20 section (e)” and inserting “subsection (a)”;

21 and

22 (ii) by adding at the end the following
23 new paragraph:

24 “(3) An individual receiving market pay under sub-
25 section (a) may not receive an adjustment or a nonforeign

1 cost of living allowance under sections 5303 or 5941 of
2 title 5.”; and

3 (I) in subsection (e), as so redesignated, by
4 striking “subsection (c), (d), or (e) except for
5 the responsibilities of the Secretary under sub-
6 section (e)(1)” and inserting “subsection (a) or
7 (b) except for the responsibilities of the Sec-
8 retary under subsection (b)(1)”.

9 (2) REPORT ON WAIVER AUTHORITY.—Not
10 later than 180 days after the date of enactment of
11 this Act, the Secretary of Veterans Affairs shall sub-
12 mit to the Committees on Veterans’ Affairs of the
13 Senate and the House of Representatives a report
14 that includes a description of the requirements, limi-
15 tations, and other considerations prescribed under
16 section 7431(b)(4)(B) of title 38, United States
17 Code, as added by paragraph (1).

18 (3) CONFORMING AMENDMENTS.—

19 (A) INCENTIVES FOR RECRUITMENT.—Sec-
20 tion 706(d)(6) of title 38, United States Code,
21 is amended by striking “total amount of com-
22 pensation under section 7431(e)(4)” and insert-
23 ing “total amount of market pay under section
24 7431”.

1 (B) AWARDS.—Section 7404A(e) of such
2 title is amended by striking “the limitation
3 under section 7431(e)(4)” and inserting “a lim-
4 itation under section 7431”.

5 (C) ADDITIONAL PAY AUTHORITIES.—Sec-
6 tion 7410(a)(2) of such title is amended by
7 striking “the limitation under section
8 7431(e)(4)” and inserting “a limitation under
9 section 7431”.

10 (D) PAY OF UNDER SECRETARY FOR
11 HEALTH.—Section 7432(b)(1) of such title is
12 amended—

13 (i) by inserting “, podiatrist, optom-
14 etrist,” after “physician”;

15 (ii) by striking “the market pay ele-
16 ment of pay of physicians and dentists”
17 and inserting “market pay”; and

18 (iii) by striking “7431(e)” and insert-
19 ing “7431”.

20 (E) ADMINISTRATIVE MATTERS.—Section
21 7433 of such title is amended by inserting “op-
22 tometrists,” after “physicians,” each place it
23 appears.

1 (F) COMPETITIVE PAY.—Section
 2 7451(a)(2)(C) of such title is amended by in-
 3 serting “optometrist,” after “physician,”.

4 (G) COMPENSATION AND PROFESSIONAL
 5 STANDARDS FOR CERTAIN MEDICAL OFFI-
 6 CERS.—Section 27(b) of the Central Intel-
 7 ligence Agency Act of 1949 (50 U.S.C.
 8 3528(b)) is amended by striking “section
 9 7431(e)(1)(C)” and inserting “section
 10 7431(b)(1)(C)”.

11 (4) CLERICAL AMENDMENTS.—

12 (A) SECTION HEADING.—

13 (i) IN GENERAL.—The heading for
 14 section 7431 of title 38, United States
 15 Code is amended to read as follows:

16 **“§ 7431. Market pay”.**

17 (ii) TABLE OF SECTIONS.—The table
 18 of sections at the beginning of subchapter
 19 III of chapter 74 of title 38, United States
 20 Code, is amended by striking the item re-
 21 lating to section 7431 and inserting the
 22 following new item:

“7431. Market pay.”.

23 (B) SUBCHAPTER HEADING.—

1 (i) IN GENERAL.—The heading for
2 subchapter III of chapter 74 of such title
3 is amended to read as follows:

4 **“Subchapter III—Pay for Physicians,
5 Podiatrists, Optometrists, and Dentists”.**

6 (ii) TABLE OF SECTIONS.—The table
7 of sections at the beginning of chapter 74
8 of such title is amended by striking the
9 item relating to subchapter III and insert-
10 ing the following new item:

“SUBCHAPTER III—PAY FOR PHYSICIANS, PODIATRISTS, OPTOMETRISTS, AND
DENTISTS”.

11 (5) APPLICABILITY DATES.—

12 (A) IN GENERAL.—The amendments made
13 by this subsection shall apply to any pay period
14 of the Department of Veterans Affairs begin-
15 ning on or after the date that is 180 days after
16 the date of enactment of this Act.

17 (B) PERFORMANCE PAY.—The Secretary
18 of Veterans Affairs may pay performance pay
19 under section 7431(d) of title 38, United States
20 Code, as in effect on the day before the date of
21 the enactment of this Act, for the calendar year
22 during which this Act is enacted.

1 (b) MODIFICATION AND CLARIFICATION OF PAY
2 GRADE FOR OPTOMETRISTS.—Section 7404 of such title
3 is amended—

4 (1) in subsection (a)(2)(A), by inserting “op-
5 tometrists,” after “podiatrists,”; and

6 (2) in the list in subsection (b)—

7 (A) in the first heading of the list following
8 the colon, by striking “PODIATRIST (DPM),
9 AND DENTIST” and inserting “PODIA-
10 TRIST (DPM), OPTOMETRIST (OD), AND
11 DENTIST”;

12 (B) by inserting “and optometrist grade”
13 after “Podiatrist grade”; and

14 (C) in the third heading of the list fol-
15 lowing the colon, by striking “CLINICAL CHI-
16 ROPRACTOR AND OPTOMETRIST
17 SCHEDULE” and inserting “CLINICAL CHI-
18 ROPRACTOR SCHEDULE”.

19 (c) RETROACTIVE AUTHORITY FOR COMPENSA-
20 TION.—

21 (1) IN GENERAL.—The Secretary of Veterans
22 Affairs may pay retroactive compensation to a cov-
23 ered employee in an amount that equals the amount
24 of compensation that was authorized to be paid to
25 such covered employee during the period specified in

1 paragraph (2), but was deferred and paid to such
2 employee in the calendar year following the calendar
3 year in which such compensation was authorized be-
4 cause the payment of such compensation would have
5 exceeded an applicable cap on annual compensation.

6 (2) PERIOD SPECIFIED.—The period specified
7 in this paragraph is the period beginning on Janu-
8 ary 8, 2006, and ending on December 31, 2017.

9 (3) EXCLUSION.—Compensation authorized
10 under this subsection shall not be included in the
11 calculation of any aggregate limit on compensation
12 for a covered employee for the year in which it is
13 paid.

14 (4) CHARGING OF COMPENSATION.—Compensa-
15 tion authorized under this subsection shall be
16 charged to the appropriate medical care appropria-
17 tion account of the Department of Veterans Affairs
18 for the fiscal year in which the work was performed
19 except as follows:

20 (A) In the case of an account that has
21 closed pursuant to section 1552 of title 31,
22 United States Code, the compensation shall be
23 charged to a current appropriation account in
24 accordance with section 1553 of such title.

1 (B) In the case of an expired account that
2 has not closed, if charging the compensation to
3 the expired account would cause such account
4 to have a negative unliquidated or unexpended
5 balance, the compensation may be charged to a
6 current appropriation account available for the
7 same purpose.

8 (5) DEFINITIONS.—In this subsection:

9 (A) The term “compensation” means any
10 pay, including salary, awards, and incentives.

11 (B) The term “covered employee” means a
12 physician, podiatrist, or dentist subject to mar-
13 ket pay under section 7431 of title 38, United
14 States Code.

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