

amendments made by this title [Dec. 21, 1987], the Secretary of Health and Human Services shall issue regulations for the loan repayment programs established by the amendments [enacting this section and sections 254q and 254q-1 of this title, amending sections 242a, 254d, 254g, 254h-1, and 254o of this title, and repealing former section 254q of this title].”

§ 254m. Obligated service under contract

(a) Service in full-time clinical practice

Except as provided in section 254n of this title, each individual who has entered into a written contract with the Secretary under section 254l or 254l-1 of this title shall provide service in the full-time clinical practice of such individual's profession as a member of the Corps for the period of obligated service provided in such contract. The Secretary may treat teaching as clinical practice for up to 20 percent of such period of obligated service. Notwithstanding the preceding sentence, with respect to a member of the Corps participating in the teaching health centers graduate medical education program under section 256h of this title, for the purpose of calculating time spent in full-time clinical practice under this section, up to 50 percent of time spent teaching by such member may be counted toward his or her service obligation.

(b) Notice to individual; information for informed decision; eligibility; notice to Secretary; qualification and appointment as commissioned officer; appointment as civilian member; designation of non-United States employee as member; deferment of obligated service

(1) If an individual is required under subsection (a) of this section to provide service as specified in section 254l(f)(1)(B)(v) or 254l-1(f)(1)(B)(iv) of this title (hereinafter in this subsection referred to as “obligated service”), the Secretary shall, not later than ninety days before the date described in paragraph (5), determine if the individual shall provide such service—

(A) as a member of the Corps who is a commissioned officer in the Regular or Reserve Corps of the Service or who is a civilian employee of the United States, or

(B) as a member of the Corps who is not such an officer or employee,

and shall notify such individual of such determination.

(2) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is a commissioned officer in the Service or a civilian employee of the United States, the Secretary shall, not later than sixty days before the date described in paragraph (5), provide such individual with sufficient information regarding the advantages and disadvantages of service as such a commissioned officer or civilian employee to enable the individual to make a decision on an informed basis. To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than thirty days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer. If an individual qualifies for an appointment as such an officer,

the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps of the Service and shall designate the individual as a member of the Corps.

(3) If an individual provided notice by the Secretary under paragraph (2) does not qualify for appointment as a commissioned officer in the Service, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual as a civilian employee of the United States and designate the individual as a member of the Corps.

(4) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is not an employee of the United States, the Secretary shall, as soon as possible after the date described in paragraph (5), designate such individual as a member of the Corps to provide such service.

(5)(A) In the case of the Scholarship Program, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for the degree for which the individual receives the scholarship, except that—

(i) for an individual receiving such a degree after September 30, 2000, from a school of medicine or osteopathic medicine, such date shall be the date the individual completes a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and

(ii) at the request of an individual, the Secretary may, consistent with the needs of the Corps, defer such date until the end of a period of time required for the individual to complete advanced training (including an internship or residency).

(B) No period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

(C) In the case of the Loan Repayment Program, if an individual is required to provide obligated service under such Program, the date referred to in paragraphs (1) through (4)—

(i) shall be the date determined under subparagraph (A) in the case of an individual who is enrolled in the final year of a course of study;

(ii) shall, in the case of an individual who is enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession, be the date the individual completes such training program; and

(iii) shall, in the case of an individual who has a degree in medicine, osteopathic medicine, dentistry, or other health profession and who has completed graduate training, be the date the individual enters into an agreement with the Secretary under section 254l-1 of this title.

(c) Obligated service period; commencement

An individual shall be considered to have begun serving a period of obligated service—

(1) on the date such individual is appointed as an officer in a Regular or Reserve Corps of the Service or is designated as a member of

the Corps under subsection (b)(3) or (b)(4) of this section, or

(2) in the case of an individual who has entered into an agreement with the Secretary under section 254n of this title, on the date specified in such agreement,

whichever is earlier.

(d) Assignment of personnel

The Secretary shall assign individuals performing obligated service in accordance with a written contract under the Scholarship Program to health professional shortage areas in accordance with sections 254d through 254h and sections 254j and 254k of this title. If the Secretary determines that there is no need in a health professional shortage area (designated under section 254e of this title) for a member of the profession in which an individual is obligated to provide service under a written contract and if such individual is an officer in the Service or a civilian employee of the United States, the Secretary may detail such individual to serve his period of obligated service as a full-time member of such profession in such unit of the Department as the Secretary may determine.

(July 1, 1944, ch. 373, title III, § 338C, formerly title VII, § 752, as added Pub. L. 94-484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2284; amended Pub. L. 95-626, title I, § 113(b), Nov. 10, 1978, 92 Stat. 3563; Pub. L. 96-76, title II, § 202(a), (b), Sept. 29, 1979, 93 Stat. 582; renumbered § 338B and amended Pub. L. 97-35, title XXVII, § 2709(a), (c), Aug. 13, 1981, 95 Stat. 908, 909; Pub. L. 97-414, § 8(g)(1), Jan. 4, 1983, 96 Stat. 2061; renumbered § 338C and amended Pub. L. 100-177, title II, § 201(2), title III, § 306, Dec. 1, 1987, 101 Stat. 992, 1004; Pub. L. 100-607, title VI, § 629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101-597, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3035; Pub. L. 107-251, title III, § 311, Oct. 26, 2002, 116 Stat. 1650; Pub. L. 111-148, title V, § 5508(b), title X, § 10501(n)(5), Mar. 23, 2010, 124 Stat. 670, 1003.)

CODIFICATION

Section was formerly classified to section 294u of this title prior to its renumbering by Pub. L. 97-35.

PRIOR PROVISIONS

A prior section 338C of act July 1, 1944, was renumbered section 338D by section 201(2) of Pub. L. 100-177 and is classified to section 254n of this title.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-148, § 10501(n)(5), in second sentence, substituted “The Secretary may treat teaching as clinical practice for up to 20 percent of such period of obligated service” for “For the purpose of calculating time spent in full-time clinical practice under this subsection, up to 50 percent of time spent teaching by a member of the Corps may be counted toward his or her service obligation” and inserted at end “Notwithstanding the preceding sentence, with respect to a member of the Corps participating in the teaching health centers graduate medical education program under section 256h of this title, for the purpose of calculating time spent in full-time clinical practice under this section, up to 50 percent of time spent teaching by such member may be counted toward his or her service obligation.”

Pub. L. 111-148, § 5508(b), amended subsec. (a) generally. Prior to amendment, text read as follows: “Except as provided in section 254n of this title, each individual

who has entered into a written contract with the Secretary under section 254l or 254l-1 of this title shall provide service in the full-time clinical practice of such individual’s profession as a member of the Corps for the period of obligated service provided in such contract.”

2002—Subsec. (b)(1). Pub. L. 107-251, § 311(1)(A), substituted “section 254l(f)(1)(B)(v)” for “254l(f)(1)(B)(iv)” in introductory provisions.

Subsec. (b)(5)(A). Pub. L. 107-251, § 311(1)(B)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for such degree, except that—

“(i) at the request of such an individual with whom the Secretary has entered into a contract under section 254l of this title prior to October 1, 1985, the Secretary shall defer such date until the end of the period of time (not to exceed the number of years specified in subparagraph (B) or such greater period as the Secretary, consistent with the needs of the Corps, may authorize) required for the individual to complete an internship, residency, or other advanced clinical training; and

“(ii) at the request of such an individual with whom the Secretary has entered into a contract under section 254l of this title on or after October 1, 1985, the Secretary may defer such date in accordance with clause (i).”

Subsec. (b)(5)(B). Pub. L. 107-251, § 311(1)(B)(i), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows:

“(B)(i) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathic medicine, or dentistry, the number of years referred to in subparagraph (A)(i) shall be 3 years.

“(ii) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the number of years referred to in subparagraph (A)(i) shall be 1 year.”

Subsec. (b)(5)(C). Pub. L. 107-251, § 311(1)(B)(iii), redesignated subpar. (E) as (C). Former subpar. (C) redesignated (B).

Subsec. (b)(5)(C)(i). Pub. L. 107-251, § 311(1)(B)(iv), substituted “subparagraph (A)” for “subparagraph (A), (B), or (D)”.

Subsec. (b)(5)(D). Pub. L. 107-251, § 311(1)(B)(ii), struck out subpar. (D) which read as follows: “In the case of the Scholarship Program, with respect to an individual receiving a degree from an institution other than a school referred to in subparagraph (A), the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the academic training of the individual leading to such degree.”

Subsec. (b)(5)(E). Pub. L. 107-251, § 311(1)(B)(iii), redesignated subpar. (E) as (C).

Subsec. (e). Pub. L. 107-251, § 311(2), struck out subsec. (e) which related to service under National Research Service Award program as credit against obligated service time.

1990—Subsec. (d). Pub. L. 101-597 substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

1988—Subsec. (b)(5). Pub. L. 100-607 substituted “osteopathic medicine” for “osteopathy” wherever appearing.

1987—Subsec. (a). Pub. L. 100-177, § 306(1), inserted “or 254l-1”, and made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(1). Pub. L. 100-177, § 306(2), inserted reference to section 254l-1(f)(1)(B)(iv).

Subsec. (b)(5). Pub. L. 100-177, § 306(3), substituted par. (5) consisting of subpars. (A) to (E) for former par. (5) consisting of subpars. (A) and (B).

Subsec. (c)(2). Pub. L. 100-177, § 306(4), made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

1983—Subsec. (e). Pub. L. 97-414 inserted “or under section 234 of this title as in effect on September 30, 1977” after “Scholarship Program”.

1981—Subsec. (a). Pub. L. 97-35, § 2709(c)(1), substituted “254n” for “294v” and “254l” for “294t”.

Subsec. (b). Pub. L. 97-35, § 2709(c)(2), substituted provisions relating to notice, information, etc., for individuals required to give obligated service, for provisions relating to notice, information, etc., for individuals required to provide service under the Scholarship Program.

Subsec. (c). Pub. L. 97-35, § 2709(c)(3), (4), in par. (1) inserted reference to designation under subsec. (b)(3) or (4) of this section, and in par. (2) substituted “254n” for “294v”.

Subsec. (d). Pub. L. 97-35, § 2709(c)(5), inserted provision relating to individuals who are officers in the Service or civilian employees of the United States, and substituted reference to sections 254d to 254h, 254j, and 254k of this title, for reference to subpart II of part D of subchapter II of this chapter.

Subsec. (e). Pub. L. 97-35, § 2709(c)(6), substituted provisions respecting mandatory determination of service requirement, for provisions respecting discretionary determination of service requirement.

1979—Subsec. (b)(5)(A). Pub. L. 96-76, § 202(a), (b)(1), (2), inserted provisions authorizing a greater period than three years for individuals receiving degrees from schools of medicine, osteopathy, and dentistry, and provisions respecting individuals receiving degrees from schools of veterinary medicine, optometry, podiatry, and pharmacy, and substituted “No period” for “No such period”.

Subsec. (b)(5)(B). Pub. L. 96-76, § 202(b)(3), substituted “referred to in subparagraph (A)” for “of medicine, osteopathy, or dentistry”.

1978—Subsec. (d). Pub. L. 95-626 substituted “subpart II of part D” for “subpart II of part C”.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title XXVII, § 2709(h), Aug. 13, 1981, 95 Stat. 912, provided that: “The amendments made by paragraphs (2), (3), and (5)(B) of subsection (c) [amending this section] shall apply with respect to contracts entered into under the National Health Service Corps scholarship program under subpart III of part C of title VII of the Public Health Service Act [section 294r et seq. of this title] after the date of the enactment of this Act [Aug. 13, 1981]. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to serve such period as a member of the National Health Service Corps who is not an employee of the United States.”

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as a note under section 254l of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 254l of this title.

SPECIAL RETENTION PAY FOR REGULAR OR RESERVE OFFICERS FOR PERIOD OFFICER IS OBLIGATED UNDER THIS SECTION

Pub. L. 100-446, title II, Sept. 27, 1988, 102 Stat. 1816, provided that: “the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is

obligated under section 338B [now 338C] of the Public Health Service Act [this section] and assigned and providing direct health services or serving the officer’s obligation as a specialist”.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100-202, § 101(g) [title II], Dec. 22, 1987, 101 Stat. 1329-213, 1329-246.

Pub. L. 99-500, § 101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-277, and Pub. L. 99-591, § 101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-277.

§ 254n. Private practice

(a) Application for release of obligations; conditions

The Secretary shall, to the extent permitted by, and consistent with, the requirements of applicable State law, release an individual from all or part of his service obligation under section 254m(a) of this title or under section 234¹ of this title (as in effect on September 30, 1977) if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of his service obligation in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his health profession—

(1) in the case of an individual who received a scholarship under the Scholarship Program or a loan repayment under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health professional shortage area on the date of his application for such a release, in the health professional shortage area in which such individual is serving on such date or in the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health professional shortage area on the date of the application of the individual for such a release, in the health professional shortage area selected by the Secretary; or

(2) in the case of any other individual, in a health professional shortage area (designated under section 254e of this title) selected by the Secretary.

(b) Written agreement; actions to ensure compliance

(1) The written agreement described in subsection (a) of this section shall—

(A) provide that, during the period of private practice by an individual pursuant to the agreement, the individual shall comply with the requirements of section 254g of this title that apply to entities; and

(B) contain such additional provisions as the Secretary may require to carry out the objectives of this section.

(2) The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to.

(c) Breach of service contract

If an individual breaches the contract entered into under section 254l or 254l-1 of this title by

¹ See References in Text note below.