



UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

AUG 16 2013

PERSONNEL AND
READINESS

The Honorable Carl Levin
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510


Dear Mr. Chairman:

This is our response to the Senate Report 112-173, pages 132-133, accompanying S. 3254, the National Defense Authorization Act for Fiscal Year 2013, which requests the Secretary of Defense, in consultation with the Director of the Office of Personnel Management, to report on the use of authorities available under title 38, U.S. Code, chapter 74, to appoint and pay for critically-needed health care occupations.

The enclosed document describes the successes achieved utilizing the delegated authorities to enhance the Department of Defense's human resource programs for recruitment of healthcare provider positions. A similar letter is being sent to the Chairpersons of the other congressional defense committees, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform.

Thank you for your interest in the health and well-being of our Service members, veterans, and their families.

Sincerely,


Jessica L. Wright
Acting

Enclosure:
As stated

cc:
The Honorable James M. Inhofe
Ranking Member



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WASHINGTON, DC 20301-4000

AUG 16 2013

PERSONNEL AND
READINESS

The Honorable Howard P. "Buck" McKeon
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

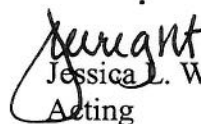
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Sincerely,


Jessica L. Wright
Acting

Enclosure:
As stated

cc:
The Honorable Adam Smith
Ranking Member



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

AUG 16 2013

The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Acting

Enclosure:
As stated

cc:
The Honorable Tom Coburn
Ranking Member



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4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

AUG 16 2013

PERSONNEL AND
READINESS

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515


Dear Mr. Chairman:

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Jessica L. Wright
Acting

Enclosure:
As stated

cc:
The Honorable Elijah E. Cummings
Ranking Member



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

AUG 16 2013

The Honorable Barbara A. Mikulski
Chairwoman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Madam Chairwoman:

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Jessica L. Wright
Acting

Enclosure:
As stated

cc:
The Honorable Richard C. Shelby
Vice Chairman



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AUG 16 2013

PERSONNEL AND
READINESS

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

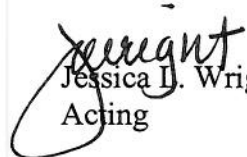
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Sincerely,


Jessica J. Wright
Acting

Enclosure:
As stated

cc:
The Honorable Nita M. Lowey
Ranking Member

HEALTH CARE PROVIDER APPOINTMENT AND COMPENSATION AUTHORITIES



SENATE REPORT 112-173 NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013

The estimated cost of report or study for the Department of Defense is approximately \$1,700 for the 2013 Fiscal Year. This includes \$0 in expenses and \$1,700 in DoD labor.

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SUMMARY

The chapter 74 authorities under title 38, U.S.C., have been delegated to appropriate levels within the Department and allow the Department of Defense (DoD) to successfully recruit and compensate incumbents of critical healthcare positions. They authorize the DoD to use the same personnel authorities used by the Department of Veterans Affairs (VA). Effective utilization of the hiring and compensation authorities found in title 38, chapter 74, has proven successful in hiring, retaining, and compensating for critical health care occupations.

Authorities that allow for expedited hiring, special salary rates, flexible work schedules, compensation systems that encompass targeted occupations and the development of updated qualification standards enable the Department to compete for available resources with the private sector while aligning compensation with the VA.

DoD fill rates are at higher levels and turnover rates at lower levels than experienced in previous years, largely due to the current economy and the use of these authorities. In most cases, the continued need for these critical occupations, as a result of mission need, has surpassed authorized manpower strength. We experienced an increase in mental health care provider staffing strength and simultaneously saw an improved higher fill rate. In Fiscal Year (FY) 2009, we had a fill rate of 92.6 percent (6,017 assigned against a 6,492 target goal) and, thus far, during the first quarter of FY 2013, we have realized a fill rate of 98.6 percent (9,570 assigned against a goal of 9,703).

Turnover rates have also decreased by as many as eight percentage points from 2007 through 2012. For example, physicians decreased from 16.6 to 8.4 percent, psychologists from 12.6 to 7.7 percent, licensed clinical social workers from 13.9 to 8.6 percent, and nurses from 14.3 to 8.9 percent. Turnover rate calculation includes loss of all permanent civilians who departs the organization. The departure may be attributed to transfers out for other employment or separations which include quits, retirement, reduction in force, termination or removal, death, or other separations.

CURRENT AUTHORITIES

Some of the initiatives undertaken or implemented using a combination of authorities in title 10, U.S.C., section 1599c, and the Office of Personnel Management (OPM) Delegation Agreement to DoD are:

- In 2011, the Physicians and Dentists Pay Plan (PDPP) was implemented throughout the Department. The PDPP provides the DoD with a competitive and effective compensation system. The PDPP has proven invaluable in allowing the Department to hire and retain these top quality health care professionals. The PDPP permitted the DoD to align with other Federal agencies and to become more competitive with the private sector.
- Current development of a DoD Nurse Tier System that aligns with the VA personnel system for nurses. It focuses on classification, compensation, career pathways, and morale issues. The proposed compensation system will enable the Department to

compensate Registered Nurses and Advanced Practice Registered Nurses based on their education, experience, and training, allowing for the recruitment and retention of the highest quality professionals.

- Premium pay options and a process for approving special salary rates.
- Development of agency specific qualification standards for 30 critical healthcare occupations modeled upon VA standards.
- Implementation of an Expedited Hiring Authority covering various critical need healthcare occupations.

Title 5 authorities such as recruitment and retention incentives and OPM Direct Hire Authorities also continue to prove successful in helping the Department achieve a competitive balance for purposes of recruitment and retention of our critical civilian health care personnel.

The enclosed matrix responds to the Committee's request for a side-by-side comparison of authorities available and exercised by the VA and within the DoD, including the Military Services, for each critical need health care occupation. Explanatory notes are provided where needed.

AUTHORITIES NEEDED

No additional authorities are requested at this time. Environmental scans are continuously conducted in order to identify the events, trends, and/or expectations that may impact demand and supply for the DoD healthcare community. The many successes achieved under the current authorities, combined with future initiatives, are sufficient to meet the Department's current and anticipated human capital needs.

SIDE BY SIDE COMPARISON OF AUTHORITIES
(Critical Need occupations covered by these authorities are listed below)

DEPARTMENT OF DEFENSE		DEPARTMENT OF VETERANS AFFAIRS
<p>OPM/DOD DELEGATION AGREEMENT: AUTHORITY: The U.S. Office of Personnel Management (OPM), under the authority of sections 1104 and 5371 of title 5, United States Code, authorizes the Department of Defense (DOD) to use certain personnel authorities for health care occupations under 38 U.S.C. chapter 74, subject to the requirements and restrictions herein. For purposes of this agreement, "health care occupations" means positions other than positions in the Senior Executive Service that provide direct patient care services or services incident to direct patient-care services and which would be covered by 5 U.S.C. chapter 51 were it not for the provisions of this agreement....</p> <p>If DoD uses one of the authorities in this agreement, the comparable authority in title 5 is waived.</p>	<p>TITLE 10 SECTION 1599c: AUTHORITY: (1) The Secretary of Defense may, at the discretion of the Secretary, exercise any authority for the appointment and pay of health care personnel under chapter 74 of title 38 for purposes of the recruitment, employment, and retention of civilian health care professionals for the Department of Defense if the Secretary determines that the exercise of such authority is necessary in order to provide or enhance the capacity of the Department to provide care and treatment for members of the armed forces who are wounded or injured on active duty in the armed forces and to support the ongoing patient care and medical readiness, education, and training requirements of the Department of Defense.</p>	<p>TITLE 38, CHAPTER 74 AUTHORITY: This chapter of title 38 is the Law governing personnel administration within the Veterans Health Administration (VHA). The Secretary of the Veterans Administration has the authority to use this entire chapter to hire, retain and pay civilian personnel within the VHA.</p> <p><i>Healthcare occupations within VHA are in the Excepted Service; those of the DoD are in the Competitive Service. Therefore, there are some inherent differences in requirements. For example, DoD does not have an exception to Time-in-Grade requirements as set out in title 5.</i></p>
<p>COORDINATION/OVERSIGHT:</p> <p>DoD is required to:</p> <p>Participate in the Interagency Committee on Health Care Occupations, which includes DoD, HHS, DOJ, DVA, DHS and the Armed Forces Retirement Home, among others.</p> <p>Allow programs to be monitored by OPM. Use of authorities must be reviewed and coordinated by OPM and other Agencies</p>	<p>COORDINATION/OVERSIGHT:</p> <p>None</p>	<p>COORDINATION/OVERSIGHT:</p> <p>None</p>

ATTACHMENT

SYNOPSIS OF TITLE 38 CHAPTER 74 AUTHORITIES:		
No corresponding authority	7401—Appointments in VHA Lists the healthcare occupations that may be appointed by the Secretary. The list includes most, if not all direct care/clinical occupations. Basis for expedited hiring authority for all critical need occupations.	Title 38 is the basis for DVA personnel programs.
Authority to Establish Qualifications—7402(a), (b), (d), and (f)	7402—Qualifications of Appointees. Gives qualification requirements for several clinical occupations as well as providing the authority to create qualifications requirements for other clinical occupations. Covers all critical need occupations.	
Qualification-based Grading system—7403(a), (b) (4), (c), (e) and (f) (1). Title 5 chapter 51 specifically exempts certain employees in the VHA from the requirements of chapter 51. DoD is not similarly exempted.	7403—Period of Appointments; promotions – allows for development of qualifications, describes principles of veterans preference requirement, and a system of promotion and advancement covers all critical need occupations.	
No corresponding authority	7404—Grades and Pay Scales--	
No corresponding authority	7405—Temporary full-time appointments, part-time appointments, and without-compensation appointments	
No corresponding authority	7406—Residencies and Internships. The Secretary may establish residencies and internships and contract with hospitals, medical schools or medical installations, etc., to facilitate	
No corresponding authority	7407—Waiver provisions for certain occupations, waiver of citizenship requirements in certain cases	
No corresponding authority	7408—Appointment at a rate of pay above the minimum rate of the grade in certain circumstances	
No corresponding authority	7409—Contracts for scarce medical specialist services	
Special Incentive Pay for Pharmacist	7410—Additional pay authorities. 3Rs, interview	

Executives -- 7410(b).	expenses. In the case of the 3Rs, title 5 authorities are sufficient. Title 5 authorities are used for DoD occupations.	
No corresponding authority	7411—Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses	
Hours of Employment – 7421(a)	7421-7426—Subchapter II, Collective Bargaining and Personnel Administration	
Pay for Physicians and Dentists -- 7431(a), (b), (c), (d)(1)-(5), (e)(2)-(4), (f) and (h); 7432; and 7433(a), DoD I 1400.25, volume 543-- Pay Plan for DoD Civilian Physicians and Dentists Covered by the General Schedule	7431-7433—Subchapter III—Pay for Physicians and Dentists.	
Special Salary Rate Authority—7455(a) (1), (a) (2) (A) and (B), (b), (c), and (d). Under the Delegation Agreement there are approval and coordination responsibilities incumbent on DoD with OPM and other Agencies which have targeted occupations. The agreement also specifies the process and approvals to be used for market surveys. There is also a reporting requirement to OPM for each SSR approved by DoD.	7455--1599c provides that DoD may use 7455 to set special salary rates. DCPAS uses the authority in the Delegation Agreement because, according to Jim Davies, that specific provision has been delegated to DCPAS to approve and there is no requirement to delegate under 1599c. HOWEVER, the same authority is contained in 1599c. 1599c does not require approval or coordination with OPM or other agencies. Covers all critical needs occupations.	
Baylor Plan and Alternate Work Schedules— 7456 and 7456A, implemented by DoD I 1400.25, volumes 540 Pay Pursuant to Title 38—Additional Pay for Certain Healthcare Professionals and 541, Pay Under Title 38— Special Rules for Nurses Under the Baylor Plan	7456--Also authorized by 1599c. In order to use 1599c as the authority, DoD I 1400.25, volume 541, Pay Under Title 38—Special Rules for Nurses Under the Baylor Plan would have to be amended.	
Premium Pay—7453, 7454 and 7457(a) and (b), implemented by DoD I 1400.25, volume 540 Pay Pursuant to Title 38—additional Pay for Certain Healthcare Professionals	Also authorized by 1599c. In order to use 1599c as the authority, DoD I 1400.25, volume 540, Pay Pursuant to Title 38—additional Pay for Certain Healthcare Professionals would have to be amended	
Head Nurse Pay and Nurse Executive Special Pay—7452(a)(2) and (g)	7452--Full authority	
Nurse Locality Pay System -- 7451(a), (b), (c), (d), (e), and (f)	7451--Full authority	
OPM Delegation Agreement covers only those specific sections/paragraphs listed above.	Title 38 chapter 74 is available in its entirety to facilitate the intent of 1599c	

Critical need occupations include the following: Clinical Psychologists, Licensed Clinical Social Workers, Physicians, Dentists, Chiropractors, Physicians Assistants, Nurses, Licensed Practical Nurses, Dietitians, Nutritionists, Occupational Therapists, Physical Therapists, Rehabilitation Therapy Assistants, Nuclear Medicine Technicians, Medical Technologists, Diagnostic Radiologic Technologists, Therapeutic Radiologic Technologists, Medical Instrument Technicians, Respiratory Therapists, Pharmacists, Pharmacy Technicians, Optometrists, Speech Pathologists and Audiologists, Orthotists and Prosthetists, Podiatrists, Medical Records Administrators, Medical Records Technicians, Dental Assistants, Dental Hygienists, Dental Lab Aids and Technicians, Industrial Hygienists and Veterinarians