

115TH CONGRESS
1ST SESSION

H. R. 1367

To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2017

Mr. WENSTRUP introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees 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. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

Sec. 2. Modification to annual determination of staffing shortages in Veterans Health Administration.

Sec. 3. Executive management fellowship program.

Sec. 4. Accountability of leaders for managing the Department of Veterans Affairs.

- Sec. 5. Modification to veterans preference.
- Sec. 6. Reemployment of former employees.
- Sec. 7. Recruiting database.
- Sec. 8. Human resources academy.
- Sec. 9. Promotional opportunities for technical experts.
- Sec. 10. Comptroller General study on succession planning.
- Sec. 11. Information on hiring effectiveness.
- Sec. 12. Employment of students and recent graduates.
- Sec. 13. Exit surveys.

1 **SEC. 2. MODIFICATION TO ANNUAL DETERMINATION OF**
 2 **STAFFING SHORTAGES IN VETERANS HEALTH**
 3 **ADMINISTRATION.**

4 Section 7412(a) of title 38, United States Code, is
 5 amended—

6 (1) by striking “the five occupations” and in-
 7 serting “the five clinical occupations and the five
 8 nonclinical occupations”; and

9 (2) by striking “throughout the Department”
 10 and inserting “with respect to each medical center of
 11 the Department,”.

12 **SEC. 3. EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM.**

13 (a) FELLOWSHIP PROGRAM.—Chapter 7 of title 38,
 14 United States Code, is amended by adding at the end the
 15 following new subchapter:

16 “SUBCHAPTER III—EXECUTIVE MANAGEMENT
 17 FELLOWSHIP PROGRAM

18 “§ 741. **Executive Management Fellowship Program**

19 “(a) FELLOWSHIP PROGRAM.—There is in the De-
 20 partment an Executive Management Fellowship Program.
 21 The purpose of the program shall be to provide—

1 “(1) eligible employees of the Veterans Benefits
2 Administration and the Veterans Health Administra-
3 tion with training and experience in the private sec-
4 tor; and

5 “(2) eligible employees of a private-sector entity
6 with training and experience in the Department of
7 Veterans Affairs.

8 “(b) FELLOWSHIP.—(1) A fellowship provided under
9 this section is a one-year fellowship during which—

10 “(A) with respect to a Department participant,
11 the participant receives training and experience at a
12 private-sector entity that is engaged in the adminis-
13 tration and delivery of health care or other services
14 similar to the benefits administered by the Sec-
15 retary; and

16 “(B) with respect to a private-sector partici-
17 pant, the participant receives training and experi-
18 ence at the Veterans Benefits Administration or the
19 Veterans Health Administration.

20 “(2) The Secretary shall enter into such agreements
21 with private-sector entities as are necessary to carry out
22 this section.

23 “(c) SELECTION OF RECIPIENTS.—(1) In August of
24 each year, the Secretary shall select—

1 “(A) not fewer than 18 and not more than 30
2 eligible employees of the Veterans Benefits Adminis-
3 tration and the Veterans Health Administration to
4 receive a fellowship under this section; and

5 “(B) not fewer than 18 and not more than 30
6 eligible employees of private-sector entities to receive
7 a fellowship under this section.

8 “(2) To the extent practicable, the Secretary shall se-
9 lect eligible employees under subparagraphs (A) and (B)
10 of paragraph (1) from among eligible employees who are
11 veterans in a manner that is reflective of the demographics
12 of the veteran population of the United States.

13 “(d) ELIGIBLE EMPLOYEES.—For the purposes of
14 this section, an eligible employee is—

15 “(1) with respect to an employee of the Vet-
16 erans Benefits Administration or the Veterans
17 Health Administration, an employee who—

18 “(A) is compensated at a rate of basic pay
19 not less than the minimum rate of basic pay
20 payable for grade GS–14 of the General Sched-
21 ule and not more than either the minimum rate
22 of basic pay payable to a member of the Senior
23 Executive Service under section 5382 of title 5,
24 United States Code, or the minimum rate of

1 basic pay payable pursuant to chapter 74 of
2 this title, as the case may be;

3 “(B) enters into an agreement with the
4 Secretary under subsection (e); and

5 “(C) submits to the Secretary an applica-
6 tion containing such information and assur-
7 ances as the Secretary may require; and

8 “(2) with respect to an employee of a private-
9 sector entity, an employee who—

10 “(A) is employed in a position whose du-
11 ties and responsibilities are commensurate with
12 an employee of the Department described in
13 paragraph (1);

14 “(B) enters into an agreement with the
15 Secretary under subsection (e); and

16 “(C) submits to the Secretary an applica-
17 tion containing such information and assur-
18 ances as the Secretary may require.

19 “(e) AGREEMENTS.—(1) An agreement between the
20 Secretary and a Department participant shall be in writ-
21 ing, shall be signed by the participant, and shall include
22 the following provisions:

23 “(A) The Secretary’s agreement to provide the
24 participant with a fellowship under this section;

25 “(B) The participant’s agreement—

1 “(i) to accept the fellowship;

2 “(ii) after completion of the fellowship, to
3 serve as a full-time employee in the Veterans
4 Benefits Administration or the Veterans Health
5 Administration for at least two years as speci-
6 fied in the agreement; and

7 “(iii) that, during the two-year period be-
8 ginning on the last day of the fellowship, the
9 participant will not accept employment in the
10 same industry as the industry of the private-
11 sector entity at which the participant accepts
12 the fellowship.

13 “(C) A provision that any financial obligation of
14 the United States arising out of an agreement en-
15 tered into under this subchapter, and any obligation
16 of the participant which is conditioned on such
17 agreement, is contingent upon funds being appro-
18 priated.

19 “(D) A statement of the damages to which the
20 United States is entitled under this subchapter for
21 the participant’s breach of the agreement.

22 “(E) Such other terms as the Secretary deter-
23 mines are required to be included in the agreement.

24 “(2) An agreement between the Secretary and a pri-
25 vate-sector participant shall be in writing, shall be signed

1 by the participant, and shall include the following provi-
2 sions:

3 “(A) The Secretary’s agreement to provide the
4 participant with a fellowship under this section.

5 “(B) The participant’s agreement to accept the
6 fellowship.

7 “(C) Such other terms as the Secretary deter-
8 mines are required to be included in the agreement.

9 “(f) TREATMENT OF RECIPIENTS.—(1) A Depart-
10 ment participant shall be considered an employee of the
11 Department for all purposes, including for purposes of re-
12 ceiving a salary and benefits, and shall remain eligible for
13 all promotion and incentive programs otherwise available
14 to such an employee.

15 “(2) A private-sector participant shall be considered
16 an employee of the private-sector entity that employs the
17 participant for all purposes, including for purposes of re-
18 ceiving a salary and benefits, and during the fellowship
19 shall be treated as a contractor of the Department.

20 “(g) REPORTS.—Not later than 60 days after com-
21 pleting a fellowship under this section, a recipient of the
22 fellowship shall submit to the Secretary a report on the
23 fellowship. Each such report shall describe the duties of
24 the recipient during the fellowship and any recommenda-
25 tions of the recipient for the application by the Secretary

1 of industry processes, technologies, and best practices. Not
2 later than seven days after receiving each such report, the
3 Secretary shall submit to the Committees on Veterans' Af-
4 fairs of the Senate and House of Representatives such re-
5 port without change.

6 “(h) DEFINITIONS.—In this section:

7 “(1) The term ‘Department participant’ means
8 an employee of the Veterans Benefits Administration
9 or the Veterans Health Administration who is par-
10 ticipating in the fellowship under this section.

11 “(2) The term ‘private-sector entity’ includes
12 an entity operating under a public-private partner-
13 ship.

14 “(3) The term ‘private-sector participant’
15 means an employee of a private-sector entity who is
16 participating in the fellowship under this section.”.

17 (b) DEADLINE FOR IMPLEMENTATION.—Not later
18 than 90 days after the date of the enactment of this Act,
19 the Secretary of Veterans Affairs shall implement the Ex-
20 ecutive Management Fellowship Program required under
21 section 741 of title 38, United States Code, as added by
22 subsection (a).

23 (c) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 7 of title 38, United States

1 Code, is amended by adding at the end the following new
2 items:

“SUBCHAPTER III—EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM
“741. Executive Management Fellowship Program.”.

3 **SEC. 4. ACCOUNTABILITY OF LEADERS FOR MANAGING**
4 **THE DEPARTMENT OF VETERANS AFFAIRS.**

5 (a) IN GENERAL.—Chapter 7 of title 38, United
6 States Code, is amended by inserting after section 717 the
7 following new section:

8 **“§ 719. Annual performance plan for political ap-**
9 **pointees**

10 “(a) IN GENERAL.—The Secretary shall conduct an
11 annual performance plan for each political appointee of
12 the Department that is similar to the annual performance
13 plan conducted for an employee of the Department who
14 is appointed as a career appointee (as that term is defined
15 in section 3132(a)(4) of title 5) within the Senior Execu-
16 tive Service at the Department.

17 “(b) ELEMENTS OF PLAN.—Each annual perform-
18 ance plan conducted under subsection (a) with respect to
19 a political appointee of the Department shall include an
20 assessment of whether the appointee is meeting the fol-
21 lowing goals:

22 “(1) Recruiting, selecting, and retaining well-
23 qualified individuals for employment at the Depart-
24 ment.

1 “(2) Engaging and motivating employees.

2 “(3) Training and developing employees and
3 preparing those employees for future leadership roles
4 within the Department.

5 “(4) Holding each employee of the Department
6 that is a manager accountable for addressing issues
7 relating to performance, in particular issues relating
8 to the performance of employees that report to the
9 manager.

10 “(c) DEFINITION OF POLITICAL APPOINTEE.—In
11 this section, the term ‘political appointee’ means an em-
12 ployee of the Department who holds—

13 “(1) a position which has been excepted from
14 the competitive service by reason of its confidential,
15 policy-determining, policy-making, or policy-advo-
16 cating character; or

17 “(2) a position in the Senior Executive Service
18 as a noncareer appointee (as such term is defined in
19 section 3132(a) of title 5).”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of chapter 7 of such title is amended by
22 inserting after the item relating to section 717 the fol-
23 lowing new item:

“719. Annual performance plan for political appointees.”.

1 **SEC. 5. MODIFICATION TO VETERANS PREFERENCE.**

2 (a) ACTIVE DUTY REQUIREMENT.—Section
3 2108(1)(B) and (D) of title 5, United States Code, are
4 amended by striking “consecutive” in each instance it ap-
5 pears and inserting “cumulative”.

6 (b) EXPANSION OF ELIGIBILITY OF RETIRED VET-
7 ERANS.—Section 2108(4) of title 5, United States Code,
8 is amended to read as follows:

9 “(4) ‘preference eligible’ includes a retired
10 member of the armed forces; and”.

11 **SEC. 6. REEMPLOYMENT OF FORMER EMPLOYEES.**

12 (a) IN GENERAL.—The Secretary of Veterans Affairs
13 may noncompetitively appoint a qualified former employee
14 to any position within the competitive service or any ex-
15 cepted service position under chapter 74 of title 38, United
16 States Code, at the Department of Veterans Affairs that
17 is one grade higher than the grade of the position at the
18 Department most recently occupied by the employee.

19 (b) LIMITATION.—The Secretary may not appoint a
20 qualified former employee to a position that is more than
21 one grade (or equivalent) higher than the position at the
22 Department most recently occupied by the employee.

23 (c) DEFINITION OF QUALIFIED FORMER EM-
24 PLOYEE.—For purposes of this section, the term “quali-
25 fied former employee” means any individual who—

1 (1) formerly occupied any position at the De-
2 partment of Veterans Affairs within two years before
3 applying for reemployment at the Department;

4 (2) voluntarily left such position, or was subject
5 to a reduction in force, and had a satisfactory per-
6 formance record while occupying such position; and

7 (3) since leaving such position has maintained
8 licensing requirements, related to the position, if
9 any, and gained skill, knowledge, or other factors re-
10 lated to the position.

11 **SEC. 7. RECRUITING DATABASE.**

12 (a) **ESTABLISHMENT.**—The Secretary of Veterans
13 Affairs shall establish a single database that lists each va-
14 cant position in the Department of Veterans Affairs that
15 the Secretary determines is critical to the mission of the
16 Department, difficult to fill, or both.

17 (b) **QUALIFIED APPLICANT.**—If the Secretary deter-
18 mines that an applicant for a vacant position listed in the
19 database established under subsection (a) is qualified for
20 such position but does not select the applicant for such
21 position, the Secretary, at the election of the applicant,
22 shall consider the applicant for other similar vacant posi-
23 tions listed in the database for which the applicant is
24 qualified.

1 (c) PROLONGED VACANCIES.—If the Secretary does
2 not fill a vacant position listed in the database established
3 under subsection (a) after a period determined appro-
4 priate by the Secretary, the Secretary—

5 (1) shall ensure that applicants described in
6 subsection (b) are considered for such position; and

7 (2) shall use the database established under
8 subsection (a) to assist in filling such position.

9 (d) REPORT.—Not later than one year after the date
10 of the enactment of this Act, the Secretary shall submit
11 to Congress a report on the use and efficacy of the data-
12 base established under subsection (a).

13 **SEC. 8. HUMAN RESOURCES ACADEMY.**

14 (a) IN GENERAL.—The Secretary of Veterans Affairs
15 shall provide to human resources professionals of the Vet-
16 erans Health Administration of the Department of Vet-
17 erans Affairs training on how to best recruit and retain
18 employees of the Veterans Health Administration, includ-
19 ing with respect to any recruitment and retention matters
20 that are unique to the Veterans Health Administration
21 pursuant to chapter 74 of title 38, United States Code,
22 or other provisions of law. The Secretary shall provide
23 such training in a manner that the Secretary determines
24 appropriate in light of budget, travel, and other con-
25 straints.

1 (b) AMOUNT OF TRAINING.—The Secretary shall en-
2 sure that each human resources professional of the Vet-
3 erans Health Administration receives the training de-
4 scribed in subsection (a)—

5 (1) as soon as practicable after being hired by
6 the Secretary as a human resource professional; and

7 (2) annually thereafter.

8 (c) CERTIFICATION.—The Secretary shall require
9 that each human resources professional of the Veterans
10 Health Administration, upon the completion of the train-
11 ing described in subsection (a), certifies that the profes-
12 sional received the training and understands the informa-
13 tion provided by the training.

14 (d) ANNUAL REPORT.—The Secretary shall submit
15 to the Committees on Veterans' Affairs of the House of
16 Representatives and the Senate an annual report on the
17 training described in subsection (a), including the cost of
18 providing such training and the number of human re-
19 sources professionals who received such training during
20 the year covered by the report.

21 **SEC. 9. PROMOTIONAL OPPORTUNITIES FOR TECHNICAL**
22 **EXPERTS.**

23 Not later than one year after the date of the enact-
24 ment of this Act, the Secretary of Veterans Affairs shall
25 establish a promotional track system for employees of the

1 Department of Veterans Affairs that the Secretary deter-
2 mines are technical experts pursuant to regulations pre-
3 scribed by the Secretary for purposes of carrying out this
4 section. Such system shall—

5 (1) provide any such employee the opportunity
6 to advance within the Department without being re-
7 quired to transition to a management position; and

8 (2) for purposes of achieving career advance-
9 ment—

10 (A) provide for the establishment of new
11 positions within the Department; and

12 (B) notwithstanding any other provision of
13 law, provide for increases in pay for any such
14 employee.

15 **SEC. 10. COMPTROLLER GENERAL STUDY ON SUCCESSION**
16 **PLANNING.**

17 (a) STUDY.—The Comptroller General of the United
18 States shall conduct a study on each of the following:

19 (1) The succession planning at each medical fa-
20 cility of the Department of Veterans Affairs.

21 (2) The succession planning at the Veterans
22 Benefits Administration and the National Cemetery
23 Administration of the Department.

1 (b) ELEMENTS.—The study under subsection (a)
2 shall include, for each entity studied under the study, the
3 following:

4 (1) A determination of the mission-critical posi-
5 tions within the entity and the vacancy risk of such
6 positions.

7 (2) An analysis of the future needs for mission-
8 critical positions and gaps within the existing talent
9 pool of the entity.

10 (3) A description of strategies to close skill
11 gaps through the use of training for existing staff,
12 targeted recruitment, and hiring.

13 (4) A plan to regularly evaluate progress of
14 staff and update existing succession plans using
15 clear and measurable metrics and benchmarks.

16 (5) A demonstration of the capacity of the enti-
17 ty to execute succession plans with successful succes-
18 sion management strategies.

19 (6) Any other matters the Comptroller General
20 determines appropriate.

21 (c) REPORT.—Not later than one year after the date
22 of the enactment of this Act, the Comptroller General shall
23 submit to the Committees on Veterans' Affairs of the
24 House of Representatives and the Senate a report con-
25 taining each study conducted under subsection (a).

1 **SEC. 11. INFORMATION ON HIRING EFFECTIVENESS.**

2 (a) IN GENERAL.—The Secretary of Veterans Affairs
3 shall measure and collect information on indicators of hir-
4 ing effectiveness as follows:

5 (1) With respect to recruiting and hiring—

6 (A) the ability to reach and recruit well-
7 qualified talent from diverse talent pools, in-
8 cluding sources of candidates for mission-crit-
9 ical occupations;

10 (B) the use and impact of special hiring
11 authorities and flexibilities to recruit most
12 qualified applicants, including the use of stu-
13 dent internships as a talent pool for permanent
14 hires;

15 (C) the use and impact of special hiring
16 authorities and flexibilities to recruit diverse
17 candidates, including veteran, minority and dis-
18 abled candidates;

19 (D) the use and impact of special hiring
20 authorities and flexibilities to recruit candidates
21 for mission-critical occupations and occupations
22 with shortages;

23 (E) the age, educational level, and source
24 of applicants;

1 (F) the length of time between the date on
2 which a position is advertised and the date on
3 which a first offer of employment is made;

4 (G) the length of time between the date on
5 which a first offer of employment for a position
6 is made and the date on which a new hire
7 starts in that position;

8 (H) the number of internal and external
9 applicants for positions; and

10 (I) the number of offers accepted com-
11 pared to the number of offers made for perma-
12 nent positions.

13 (2) With respect to the hiring authority—

14 (A) the satisfaction of the hiring authority
15 with—

16 (i) the quality of new hires;

17 (ii) the match between the skills of
18 newly hired individuals and the needs of
19 the Department;

20 (iii) the hiring process and hiring out-
21 comes after the first year of the employ-
22 ment of a new hire; and

23 (iv) the length of time that elapses to
24 fill a position and for a new hire to begin
25 working in a new position; and

1 (B) mission-critical deficiencies filled by
2 new hires and the connection between mission-
3 critical deficiencies and annual agency perform-
4 ance.

5 (3) Satisfaction of employment applicants with
6 the hiring process, including with respect to the clar-
7 ity of job announcement, reasons for withdrawal of
8 applications, user-friendliness of the application
9 process, communication regarding status of applica-
10 tion, and timeliness of hiring decision.

11 (4) With respect to a newly hired employee—

12 (A) the satisfaction of the employee with
13 the hiring process as described in paragraph
14 (3);

15 (B) the satisfaction with the process of
16 joining and becoming oriented with the Depart-
17 ment, including with respect to the timeliness of
18 such process after the hiring decision, the ori-
19 entation process, and being provided with time-
20 ly and useful new employee information and as-
21 sistance after the hire is made but before the
22 new hire starts in that position and after the
23 new hire has begun;

24 (C) attrition and reasons for leaving;

1 (D) investment in training and develop-
2 ment for the employee during the first year of
3 employment; and

4 (E) significant barriers to the effective re-
5 cruitment, selection, joining and becoming ori-
6 ented with the Department, and retention of
7 employees.

8 (b) DISAGGREGATION OF DATA.—To the extent prac-
9 ticable and in a manner which protects personally identifi-
10 able information of applicants and employees, the Sec-
11 retary shall collect and report data collected under sub-
12 section (a) disaggregated by facility or Veterans Inte-
13 grated Service Network.

14 (c) REPORTS.—

15 (1) IN GENERAL.—On an annual basis, the Sec-
16 retary shall submit to the Committees on Veterans'
17 Affairs of the House of Representatives and the Sen-
18 ate a report of the information collected under sub-
19 section (a).

20 (2) AVAILABILITY OF RECRUITING AND HIRING
21 INFORMATION.—On an annual basis, the Secretary
22 shall make publicly available the information col-
23 lected under subsection (a) in a consistent and ma-
24 chine-readable format to allow for a comparison of
25 hiring effectiveness and experience by Veterans Inte-

1 (c) UNIFORMITY.—For the purposes of subsections
2 (b)(2) and (b)(3), hours of work performed by an indi-
3 vidual employed shall be considered equal to those per-
4 formed by an individual employed in a qualifying intern-
5 ship or fellowship program by the Department.

6 **SEC. 13. EXIT SURVEYS.**

7 (a) IN GENERAL.—The Secretary of Veterans Affairs
8 shall develop and carry out a standardized exit survey to
9 be voluntarily completed by career and noncareer employ-
10 ees and executives of the Department of Veterans Affairs
11 who voluntarily separate from the Department. Such exit
12 survey shall be developed in consultation with an appro-
13 priate non-Department entity with experience developing
14 such surveys.

15 (b) SURVEY CONTENT.—The survey shall include, at
16 a minimum—

17 (1) reasons for leaving the Department;

18 (2) efforts made by the supervisor of the em-
19 ployee to retain the individual;

20 (3) the extent of job satisfaction and engage-
21 ment during the employment;

22 (4) the intent of employee to either remain em-
23 ployed within the Federal Government or to leave
24 employment with the Federal Government; and

1 (5) such other matters as the Secretary deter-
2 mines appropriate.

3 (c) ANONYMITY OF SURVEY CONTENT.—The Sec-
4 retary shall ensure that, to the extent possible, data col-
5 lected under subsection (a) is anonymized and personally
6 identifiable information is removed.

7 (d) SHARING OF SURVEY DATA.—The Secretary
8 shall ensure that the results of the survey required by sub-
9 section (a) are shared on an annual basis with directors
10 and managers of facilities of the Department and the Vet-
11 erans Integrated Service Networks.

12 (e) REPORT.—Not later than one year after the date
13 of the enactment of this Act, and annually thereafter, the
14 Secretary shall submit to the Committees on Veterans' Af-
15 fairs of the House of Representatives and the Senate a
16 report containing the aggregate results of the exit survey
17 under subsection (a) covering the year prior to the report.
18 The report shall include—

19 (1) an analysis of the most common reasons
20 employees choose to leave the Department;

21 (2) steps the Secretary is taking to improve re-
22 tention, particularly for mission-critical occupations;

23 (3) the demographic characteristics of employ-
24 ees choosing to leave the Department;

1 (4) any legislative barriers to improving em-
2 ployee retention; and

3 (5) the number of employees who took the exit
4 survey under subsection (a).

○