

(C) Section 752 of the Public Health Service Act, as that section was in effect between October 1, 1977, and August 13, 1981.

(c) Special pay authorized under sections 301d, 302 through 302j, and 303 of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other provision of this title or in computing retired pay, separation pay, severance pay, or readjustment pay.

(d) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 301d, 302 through 302j, and 303 of this title.

(Added Pub. L. 96-284, §5(a), June 28, 1980, 94 Stat. 592; amended Pub. L. 96-513, title V, §506(6), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 100-140, §2(b)(1), Oct. 26, 1987, 101 Stat. 831; Pub. L. 101-189, div. A, title VII, §§705(b), 706(b), Nov. 29, 1989, 103 Stat. 1472, 1473; Pub. L. 101-510, div. A, title VI, §611(d), title XIII, §1322(c)(2), title XIV, §1484(c)(1), Nov. 5, 1990, 104 Stat. 1577, 1672, 1716; Pub. L. 102-484, div. A, title X, §1054(a)(3), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 104-106, div. A, title VI, §614(b), Feb. 10, 1996, 110 Stat. 361; Pub. L. 104-201, div. A, title VI, §615(c)(3), Sept. 23, 1996, 110 Stat. 2546; Pub. L. 106-398, §1 [div. A], title VI, §§628(b), 634(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-155, 1654A-159.)

REFERENCES IN TEXT

Section 225(e) of the Public Health Service Act, as that section was in effect before October 1, 1977, referred to in subsec. (b)(2)(B), is section 225(e) of act July 1, 1944, ch. 373, which was classified to section 234(e) of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 94-484, title IV, §408(b)(1), Oct. 12, 1976, 90 Stat. 2281, effective Oct. 1, 1977.

Section 752 of the Public Health Service Act, as that section was in effect between October 1, 1977, and August 13, 1981, referred to in subsec. (b)(2)(C), is section 752 of act July 1, 1944, ch. 373, title VII, 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, which was classified to section 294u of Title 42, The Public Health and Welfare. Section 752 was renumbered section 338B of act July 1, 1944, and amended, by Pub. L. 97-35, title XXVII, §2709(a), (c), Aug. 13, 1981, 95 Stat. 908, 909. It was subsequently renumbered section 338C of act July 1, 1944, and further amended, and is now classified to section 254m of Title 42.

AMENDMENTS

2000—Pub. L. 106-398, §1 [div. A], title VI, §628(b)], substituted “302j” for “302h” wherever appearing.

Subsecs. (b) to (d). Pub. L. 106-398, §1 [div. A], title VI, §634(a)], added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1996—Pub. L. 104-201 substituted “302h” for “302g” wherever appearing.

Pub. L. 104-106 substituted “302 through 302g,” for “302, 302a, 302b, 302c, 302d, 302e,” wherever appearing.

1992—Subsec. (b). Pub. L. 102-484 struck out “301d,” after “such sections”.

1990—Subsec. (a). Pub. L. 101-510, §§611(d), 1484(c)(1), inserted “301d,” after “sections” and substituted “and 303” for “303, and 311”.

Subsec. (b). Pub. L. 101-510, §611(d), inserted “301d,” after “sections” wherever appearing.

Subsec. (c). Pub. L. 101-510, §§611(d), 1322(c)(2), 1484(c)(1), inserted “301d,” after “sections”, substituted “and 303” for “303, and 311”, and struck out at end “A report shall be submitted to the Congress not later than September 30, 1982, of the results of the first such review, and a report shall be submitted to the Congress not later than September 30 of each second year thereafter on the results of the review for the preceding two-year period.”

1989—Pub. L. 101-189 inserted “302d, 302e,” after “302c,” wherever appearing.

1987—Pub. L. 100-140 inserted “302c,” after “302b,” wherever appearing.

1980—Subsec. (a). Pub. L. 96-513, §506(6)(A), struck out reference to sections 302c and 313 of this title.

Subsec. (b). Pub. L. 96-513, §506(6)(B), (C), struck out reference to section 302c of this title and inserted reference to separation pay.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-140 effective Oct. 26, 1987, and applicable to pay periods beginning on or after such date, see section 2(c) of Pub. L. 100-140, set out as an Effective Date note under section 302c of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 302a, 302i, 302b of this title; title 42 section 210.

§ 303b. Waiver of board certification requirements

(a) CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.—A member of the armed forces described in subsection (b) who completes the board certification or recertification requirements specified in section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of this title before the end of the period established for the member in subsection (c) shall be paid special pay under the applicable section for active duty performed during the period beginning on the date on which the member was assigned to duty in support of a contingency operation and ending on the date of that certification or recertification if the Secretary of Defense determines that the member was unable to schedule or complete that certification or recertification earlier because of that duty.

(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the armed forces referred to in subsection (a) is a member who—

- (1) is a medical or dental officer or a non-physician health care provider;
- (2) has completed any required residency training; and

- (3) was, except for the board certification requirement, otherwise eligible for special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of this title during a duty assignment in support of a contingency operation.

(c) PERIOD FOR CERTIFICATION.—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the armed forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the

date on which the member is released from the duty to which the member was assigned in support of a contingency operation.

(Added Pub. L. 102-190, div. A, title VI, § 635(a), Dec. 5, 1991, 105 Stat. 1382.)

OPERATION DESERT STORM DUTY ASSIGNMENTS

Pub. L. 102-25, title III, § 305, Apr. 6, 1991, 105 Stat. 82, provided that:

“(a) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) who completes the board certification or recertification requirements specified in section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of title 37, United States Code, before the end of the period established for the member in subsection (c) shall be paid special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title (whichever applies) for active duty performed after November 5, 1990, and before the date of that certification and recertification if the Secretary of Defense determines that the member was unable to schedule or complete that certification or recertification earlier because of a duty assignment in connection with Operation Desert Storm.

“(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member who—

“(1) is a medical or dental officer or a nonphysician health care provider;

“(2) has completed any required residency training; and

“(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title during the duty assignment in connection with Operation Desert Storm.

“(c) PERIOD FOR CERTIFICATION.—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the Armed Forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date that the member is released from the duty to which the member was assigned in connection with Operation Desert Storm.”

§ 304. Special pay: diving duty

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who is entitled to basic pay is entitled to special pay, in the amount set forth in subsection (b), for periods during which the member—

(1) is assigned by orders to the duty of diving;

(2) is required to maintain proficiency as a diver by frequent and regular dives; and

(3) either—

(A) actually performs diving duty while serving in an assignment for which diving is a primary duty; or

(B) meets the requirements to maintain proficiency as described in paragraph (2) while serving in an assignment that includes diving duty other than as a primary duty.

(b) Special pay payable under subsection (a) shall be paid at a rate of not more than \$240 a month, in the case of an officer, and at a rate of not more than \$340 a month, in the case of an enlisted member.

(c) If, in addition to diving duty, a member is assigned by orders to one or more hazardous duties described in section 301 of this title, the

member may be paid, for the same period of service, special pay under this section and incentive pay under such section 301 for each hazardous duty for which the member is qualified.

(d)(1) Under regulations prescribed by the Secretary concerned and to the extent provided for by appropriations, when a member of the National Guard or a reserve component of a uniformed service who is entitled to compensation under section 206 of this title performs diving duty, pursuant to orders, such member is entitled to an increase in compensation equal to $\frac{1}{30}$ of the monthly special pay prescribed by the Secretary concerned for the performance of diving duty by a member of comparable diving classification who is entitled to basic pay under section 204 of this title. Such member is entitled to the increase—

(A) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday; or

(B) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

(2) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

(e) In time of war, the President may suspend the payment of diving duty pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 97-60, title I, § 115, Oct. 14, 1981, 95 Stat. 995; Pub. L. 100-180, div. A, title VI, § 624(a), Dec. 4, 1987, 101 Stat. 1103; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-261, div. A, title VI, § 616(a), Oct. 17, 1998, 112 Stat. 2041; Pub. L. 106-65, div. A, title VI, § 617(a), (b), Oct. 5, 1999, 113 Stat. 652.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
304(a)	37:236(a), (b).	Oct. 12, 1949, ch. 681, § 205, 63 Stat. 810; Mar. 31, 1955, ch. 20, § 2(8)-(10), 69 Stat. 21; Aug. 17, 1961, Pub. L. 87-145, § 1, 75 Stat. 382.
304(b)	37:236(c).	

In subsection (a), the last sentence is substituted for section 236(b) of existing title 37. The word “competent” is omitted as surplusage.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106-65, § 617(a), substituted “\$240” for “\$200” and “\$340” for “\$300”.

Subsec. (c). Pub. L. 106-65, § 617(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “A member may be paid special pay under this section and incentive pay under section 301 of this title for the same period of service only if the member is assigned by orders to a hazardous duty described in section 301(a) of this title in addition to diving duty. However, if a member is paid special pay under this section, the member is not entitled to more than one payment of incentive pay under section 301 of this title.”

1998—Subsec. (a)(3). Pub. L. 105-261 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “actually performs diving duty.”

1991—Subsec. (a). Pub. L. 102-25 struck out “of this section” after “subsection (b)”.

Subsec. (b). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.