

used with energy derived from an oil or gas substance without significant modification. All items are depreciable and have a useful life of three years or more. The use of the equipment to heat the building is the first use to which the equipment has been put.

(c) Water is pumped from the basement through pipes to the roof solar collector. Heated water returns through pipes to a heat exchanger which transfers heat to the water in the hot water tank.

(d) The hot water tank and the oil-fired water heater utilize the same distribution pipe. Pumps and valves at the points of connection between the hot water tank, the oil-fired water heater, and the distribution pipe regulate the auxiliary energy supply use. They also prevent the oil-fired water heater from heating water in the hot water tank.

(e) An integrated control component determines whether hot water from the hot water tank or from the oil-fired water heater is distributed to fan-coil units located throughout the building.

(f) The roof solar collector is solar energy property. The pump that moves the water to the roof collector and the pipes between the roof collector and the hot water tank qualify because they are solely related to transporting solar heated water. The hot water tank qualifies because it stores water heated solely by solar radiation. The heat exchanger also qualifies.

(g) The oil-fired water heater does not qualify as solar energy property because it is auxiliary equipment.

(h)(i) Because the distribution pipe, the control component, and the pumps and valves serve the oil-fired water heater as well as the solar energy equipment; they qualify only to the extent of eighty percent of their cost or basis, the portion allocable to use of solar energy. If, in a subsequent taxable year, the basis or cost allocable to their use of solar energy falls below eighty percent, recapture may be required under section 47 and § 1.47-1(h). Thus, if, on a Btu basis, only 70 percent of the total energy input to that equipment for the 365 day period beginning October 1, 1980, is from solar energy, then there will be complete recapture of the credit during the 1980 taxable year. If, however, for that 365 day period, the portion of that equipment's total energy input that is from solar energy is less than 80 percent but greater than or equal to 75 percent, then only a proportional amount of credit will be recaptured during the 1980 taxable year. No additional credit is allowable for the equipment in a subsequent taxable year, however, if the portion of its basis or cost allocable to use of solar energy increases above what it was for a previous taxable year (see § 1.46-3 (d)(4)(i)).

(ii) The fan-coil units do not qualify as solar energy property because they are not specially adapted to use energy derived from solar energy.

(e) *Wind energy property*—(1) *In general.* Energy property includes wind energy property. Wind energy property is equipment (and parts related to the functioning of that equipment) that performs a function described in paragraph (e)(2) of this section. In

general, wind energy property consists of a windmill, wind-driven generator, storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. Wind energy property does not include equipment that transmits or uses electricity derived from wind energy. In addition, limitations apply similar to those set forth in paragraph (d) (5), (6), and (8) of this section. For example, if equipment is used by both auxiliary equipment and wind energy equipment, such equipment is wind energy property only if its use of energy other than wind energy does not exceed 25 percent of its total energy input in an annual measuring period and only to the extent of its basis or cost allocable to its use of wind energy during an annual measuring period.

(2) *Eligible functions.* Wind energy property is limited to equipment (and parts related to the functioning of that equipment) that—

(i) Uses wind energy to heat or cool, or provide hot water for use in, a building or structure, or

(ii) Uses wind energy to generate electricity (but not mechanical forms of energy).

* * * * *

Lawrence B. Gibbs,
Commissioner of Internal Revenue.

Approved:

J. Roger Mentz,
Assistant Secretary of the Treasury.

[FR Doc. 87-16551 Filed 7-20-87; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Medical Reports as Informal Claims/ Recoupment of Separation Pay

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The Veterans Administration is amending its adjudication regulations concerning the acceptability of certain medical reports as informal claims and the withholding of compensation to recoup separation pay and readjustment pay. These amendments are necessary to implement certain provisions of the Defense Officer Personnel Management Act and two unpublished opinions of the VA General Counsel. The effect of these amendments will be to clarify the circumstances under which medical reports may constitute informal claims for benefits and to prevent duplication of payments of compensation and military separation and readjustment pay.

DATES: This regulation is effective August 20, 1987, with the exception of the amendment concerning recoupment of separation pay (38 CFR 3.700(a)(5)) which is effective September 15, 1981, as provided by law.

FOR FURTHER INFORMATION CONTACT:

Robert M. White, Chief, Regulations Staff, Compensation and Pension Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: On pages 3286-3288 of the Federal Register of February 3, 1987, the VA published proposed regulatory amendments on medical reports as informal claims and on recoupment of separation pay. Interested persons were invited to submit comments, suggestions or objections by March 3, 1987. No comments were received.

Upon further review of our regulatory amendment, we have determined that, for clarity, § 3.155 should be cross-referenced to § 3.157 for instructions regarding circumstances under which a report of examination or hospitalization may be accepted as an informal claim. The proposed regulations as amended are adopted as final.

Regulatory Flexibility Act (RFA)

The Administrator hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612. Therefore, pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that these regulations impose no regulatory burdens on small entities, and only claimants for VA benefits will be directly affected.

Executive Order 12291

In accordance with Executive Order 12291, Federal Regulation, we have determined that these regulations are non-major for the following reasons:

(1) They will not have an annual effect on the economy of \$100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practices and procedures, Claims, Handicapped, Health care, Pensions, Veterans, Veterans Administration.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

Approved: June 24, 1987.

Thomas K. Turnage,
Administrator.

38 CFR Part 3, ADJUDICATION, is amended as follows:

PART 3—[AMENDED]

1. The authority citation for Part 3, Subpart A, continues to read as follows:

Authority: 72 Stat. 1114; 38 U.S.C. 210.

2. In § 3.155, paragraph (c) is revised and a cross-reference added to read as follows:

§ 3.155 Informal claims.

(c) When a claim has been filed which meets the requirements of § 3.151 or § 3.152, and informal request for increase or reopening will be accepted as a claim.

Cross-Reference: State Department as agent of VA. See § 3.108. Report of examination or hospitalization—as claim for increase or to reopen. See § 3.157.

3. In § 3.157(a), remove the words "Pub. L. 87-825" from the citation at the end of the paragraph, so that the complete citation reads "(38 U.S.C. 3010(a))".

4. In § 3.157, paragraph (b)(1) is revised to read as follows:

§ 3.157 Report of examination or hospitalization as claim for increase or to reopen.

(b) * * *

(1) *Report of examination or hospitalization by VA or uniformed services.* The date of outpatient or hospital examination or date of admission to a VA or uniformed services hospital will be accepted as the date of receipt of a claim. The date of a uniformed service examination which is the basis for granting severance pay to a former member of the Armed Forces on the temporary disability retired list will be accepted as the date of receipt of claim. The date of admission to a non-VA hospital where a veteran was maintained at VA expense will be accepted as the date of receipt of a claim, if VA maintenance was previously authorized; but if VA maintenance was authorized subsequent to admission, the date the VA received notice of admission will be accepted.

The provisions of this paragraph apply only when such reports relate to examination or treatment of a disability for which service-connection has previously been established or when a claim specifying the benefit sought is received within one year from the date of such examination, treatment or hospital admission. (38 U.S.C. 210(c))

* * * * *

5. In § 3.700, paragraph (a)(2) is revised, a citation is added at the end of paragraph (a)(3) and paragraph (a)(5) is added to read as follows:

§ 3.700 General.

* * * * *

(a) * * *

(2) *Lump-sum readjustment pay.* (i) Where entitlement to disability compensation was established prior to September 15, 1981, a veteran who has received a lump-sum readjustment payment under former 10 U.S.C. 687 (as in effect on September 14, 1981) may receive disability compensation for disability incurred in or aggravated by service prior to the date of receipt of lump-sum readjustment payment subject to deduction of an amount equal to 75 percent of the amount received as readjustment payment. (38 U.S.C. 210(c))

(ii) Readjustment pay authorized under former 10 U.S.C. 3814(a) is not subject to recoupment through withholding of disability compensation, entitlement to which was established prior to September 15, 1981. (38 U.S.C. 210(c)).

(iii) Where entitlement to disability compensation was established on or after September 15, 1981, a veteran who has received a lump-sum readjustment payment may receive disability compensation for disability incurred in or aggravated by service prior to the date of receipt of the lump-sum readjustment payment, subject to recoupment of the total amount of the readjustment payment. (38 U.S.C. 210(c))

(iv) The receipt of readjustment pay does not affect the payment of disability compensation based on a subsequent period of service. Compensation payable for service-connected disability incurred or aggravated in a subsequent period of service will not be reduced for the purpose of offsetting readjustment pay based on a prior period of service. (10 U.S.C. 1174(h)(2))

(3) *Severance pay.* * * * (10 U.S.C. 1212(c))

(4) * * *

(5) *Separation pay.* (i) A veteran who has received separation pay may receive disability compensation for disability incurred in or aggravated by service prior to the date of receipt of

separation pay subject to recoupment of the total amount received as separation pay.

(ii) The receipt of separation pay does not affect the payment of disability compensation based on a subsequent period of service. Compensation payable for service-connected disability incurred or aggravated in a subsequent period of service will not be reduced for the purpose of offsetting separation pay based on a prior period of service. (10 U.S.C. 1174)

* * * * *

[FR Doc. 87-16450 Filed 7-20-87; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Public Health Service****42 CFR Part 57****Grants for Nurse Practitioner Training Programs**

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: This rule amends existing regulations governing the Grants for Nurse Practitioner Training Programs authorized by section 822(a) of the Public Health Service Act (the Act) by adding the definition of "Nurse midwife" to the regulations and the guidelines published at the Appendix and by further amending the Appendix to revise the interpretation of the student enrollment requirement from eight full-time students to eight full-time equivalent students. This rule also amends the existing regulations and Appendix to conform with amendments made to section 822(a) by Pub. L. 99-92, the Nurse Education Amendments of 1985, enacted on August 16, 1985, and by Pub. L. 99-129, the Health Professions Training Assistance Act of 1985, enacted October 22, 1985; and the Compact of Free Association Act of 1985 (Pub. L. 99-239), enacted on January 14, 1986.

EFFECTIVE DATE: These regulations are effective on July 21, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Jo Eleanor Elliott, Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number: 301 443-5786.

SUPPLEMENTARY INFORMATION: On October 30, 1986, the Assistant Secretary for Health, Department of Health and Human Services, with the

approval of the Secretary, published in the Federal Register (51 FR 39669), a Notice of Proposed Rulemaking (NPRM) to amend existing regulations governing the Grants for Nurse Practitioner Training Programs authorized by section 822(a) of the Public Health Service Act (the Act) by adding the definition of "Nurse midwife" to the regulations and the guidelines published at the Appendix and to further amend the Appendix to revise the interpretation of the student enrollment requirement from eight full-time students to eight full-time equivalent students.

In the NPRM, the Department also proposed the following revisions to the existing regulations and Appendix to conform to amendments made to section 822(a) by Pub. L. 99-92 and by Pub. L. 99-129:

1. Revise the title of 42 CFR Part 57, Subpart Y from "Nurse Practitioner Training Programs" to "Nurse Practitioner and Nurse Midwifery Programs," and strike out the word "training" and insert in lieu thereof "education" wherever it appears in the text. Also, the words "or nurse midwife" and "or nurse midwives" are to be inserted immediately following the words "nurse practitioner" or "nurse practitioners" throughout the text of the regulations and the Appendix.

2. Review § 57.2401, "Applicability," to limit the eligibility of schools of medicine to those that received grants prior to October 1, 1985, and to delete the words "significantly" and "existing" when referring to a project to expand or maintain programs for the education of nurse practitioners and nurse midwives.

3. Revise § 57.2402, "Definitions," to change the following terms:

(a) The definition of "State" by striking out "the Canal Zone" and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands";

(b) The definition of "Programs for the training of nurse practitioners" to "Programs for the education of nurse practitioners or nurse midwives"; and

(c) The definition of "Primary health care" to include nurse midwifery services.

4. Revise § 57.2403, "Eligibility," to:

(a) Limit grants to schools of medicine which received grants prior to October 1, 1985; and

(b) Delete the words "significantly" and "existing" when referring to a project to expand or maintain programs for the education of nurse practitioners and nurse midwives.

5. Revise § 57.2406, "Evaluation and grant awards," to provide that the

Secretary will give special consideration to applications for grants for programs emphasizing the education of nurse practitioners which prepare them to meet the needs of patients confined to their homes, and for programs for the education of nurse practitioners which emphasize education regarding the special problems of geriatric patients particularly those problems in the delivery of preventive care, acute care, and long-term care (including home health care and institutional care).

It was also proposed to amend § 57.2406 to emphasize the national need to train more minority and financially needy students by providing special consideration to those applicants with programs in place to recruit and retain minority students.

The public comment period on the proposed regulations closed on December 29, 1986. The Department received 64 comments on this NPRM from schools, professional associations, hospitals, students and other interested individuals. A summary of the comments received on the proposed rules and the Department's response to the comments are set forth below.

All of the respondents were supportive of the two major proposed amendments to the regulations and the guidelines: (1) The addition of the definition of "Nurse midwife" to mean a registered nurse who has completed a formal program of study designed to prepare registered nurses to perform in an expanded role in the delivery of primary health care to women and babies including the management of normal antepartum, intrapartum, and postpartum care as well as family planning and gynecology; and (2) the revision of the interpretation of the student enrollment requirement from eight full-time students to eight full-time equivalent students in the guidelines at the Appendix to the regulations.

One respondent requested a revision of the definition of "School of medicine" to include schools of osteopathy so that such schools would be eligible for grants under section 822. The term "School of medicine" is defined in the Public Health Service Act (section 701(f)) as a school which offers training leading to the degree of doctor of medicine. The Department believes that it is inappropriate to include schools of osteopathy in the definition, since schools of osteopathy do not offer such training but rather training leading to the degree of doctor of osteopathy. The Department, therefore, has not made the requested change. It should be noted, however, that this change is not

necessary to establish the eligibility of schools of osteopathy for grants under section 822, since the statute provides that public or nonprofit private entities are eligible for support. Therefore, the amendments set out in the October 30, 1986, NPRM are adopted as proposed.

In addition, this regulation includes a number of revisions to the regulations governing the Grants for Nurse Practitioner and Nurse Midwifery Programs, codified at 42 CFR Part 57, Subpart Y. These revisions are necessary to conform the regulations to amendments made by Pub. L. 99-92, Pub. L. 99-239, and to incorporate current departmental boilerplate language. Since the amendments are technical and ministerial in nature, the Secretary has determined pursuant to 5 U.S.C. 553 and departmental policy that it is unnecessary and impractical to follow proposed rulemaking procedures. The revisions are summarized below according to the section numbers and the titles of the regulations.

1. Revise § 57.2402, "Definitions," to change the following terms:

(a) The definition of "School of medicine" to reflect the current title of the Secretary of Education;

(b) The definition of "School of public health" to reflect the current title of the Secretary of Education;

(c) The definition of "State" by inserting after the "Trust Territory of the Pacific Islands" those entities which, for purposes of this grant program, are viewed as a State, "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia," in accordance with Pub. L. 99-239.

2. Revise § 57.2404, "Application," to delete a requirement to provide information regarding the cost of providing nurse faculty members with clinical preparation, in accordance with Pub. L. 99-92 which repealed this provision.

3. Revise § 57.2406, "Evaluation and grant awards," to reflect current departmental boilerplate language in paragraph (b)(1).

4. Revised § 57.2408, "Expenditure of grant funds," to delete the allowance of the expenditure of funds granted for the cost of providing clinical education of nurse faculty members, in accordance with Pub. L. 99-92 which repealed this provision, and to reflect current departmental boilerplate language.

5. Delete § 57.2409, "Nondiscrimination," in its entirety and substitute a new § 57.2409 specifying

additional Department regulations that apply to grantees.

6. Delete § 57.2410, "Human subjects.", § 57.2411, "Grantee accountability.", § 57.2412, "Publications and copyright.", and § 57.2413, "Applicability of 45 CFR Part 74." in their entirety.

7. Redesignate § 57.2414, "Additional conditions.", as § 57.2410.

8. Cite the Office of Management and Budget (OMB) approval number in those sections which contain recordkeeping and reporting requirements.

Regulatory Flexibility Act and Executive Order 12291

These regulations govern a financial assistance program in which participation is voluntary. The rule will not exceed the threshold level of \$100 million established in section (b) of Executive Order 12291. For these reasons, the Secretary has determined that this rule is not a "major rule" under Executive Order 12291 and a regulatory impact analysis is not required. Further, because the rule does not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

Paperwork Reduction Act of 1980

The recordkeeping and reporting requirements in § 57.2404 and § 57.2405 of the regulations governing Grants for Nurse Practitioner and Nurse Midwifery Programs and the application forms and instructions for this grant program have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (OMB Approval Numbers 0915-0060 for the competing application form and 0915-0061 for the continuation application form).

List of Subjects in 42 CFR Part 57

Dental health, Education of the disadvantaged, Educational facilities, Educational study program, Emergency medical services, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Scholarships and fellowships, Grant programs—education, Grant programs—health, Student aid.

Accordingly, 42 CFR Part 57, Subpart Y is amended as set forth below:

(Catalog of Federal Domestic Assistance, No. 13.298, Grants for Nurse Practitioner and Nurse Midwifery Programs)

Dated: April 30, 1987.

Robert E. Windom,
Assistant Secretary for Health.

Approved: June 30, 1987.

Otis R. Bowen,
Secretary.

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

1. The heading for 42 CFR Part 57, Subpart Y is revised to read as follows:

Subpart Y—Grants for Nurse Practitioner and Nurse Midwifery Programs

2. The authority citation for Subpart Y is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 822(a) of the Public Health Service Act, 89 Stat. 361, as amended by 99 Stat. 394-395 and 548 (42 U.S.C. 296m).

3. Section 57.2401 is revised to read as follows:

§ 57.2401 Applicability.

The regulations of this subpart are applicable to the award of grants to public or nonprofit private schools of nursing and public health, public or nonprofit private schools of medicine which received grants under section 822(a) of the Public Health Service Act (42 U.S.C. 296m) prior to October 1, 1985, public or nonprofit private hospitals, and other public or nonprofit private entities under section 822(a) to meet the cost of projects to (a) plan, develop, and operate, (b) expand, or (c) maintain programs for the education of nurse practitioners or nurse midwives.

4. Section 57.2402 is amended by revising paragraphs (e), (h), (i), (k), (l), and (o); by redesignating and revising paragraph (q) as (r); and by adding a new paragraph (q) to read as follows:

§ 57.2402 Definitions.

(e) "Collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced education related to such program of education provided by such school, but only if such program, or such unit, college or university is

accredited as provided in section 853(6) of the Act.

(h) "School of medicine" means a school which provides education leading to a degree of doctor of medicine and which is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

(i) "School of public health" means a school which provides education leading to a graduate degree in public health and which is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

(k) "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

(l) "Program director" means a qualified individual designated by the grantee and approved by the Secretary who is to be functionally responsible for the education program being supported under this subpart.

(o) "Programs for the education or nurse practitioners or nurse midwives" means full-time educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meets the guidelines prescribed by the Secretary in the Appendix to this subpart and which has as its objective the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities (where appropriate), and other health care institutions.

(q) "Nurse-midwife" means a registered nurse who has completed a formal program of study designed to prepare registered nurses to perform in an expanded role in the delivery of primary health care to women and babies including the management of normal antepartum, intrapartum, and postpartum care as well as family planning and gynecology.

(r)(1) "Primary health care" means care which may be initiated by the client or provider in a variety of settings and which consists of a broad range of personal health care services including:

- (i) Promotion and maintenance of health;
 - (ii) Prevention of illness and disability;
 - (iii) Basic care during acute and chronic phases of illness;
 - (iv) Guidance and counseling of individuals and families;
 - (v) Referral to other health care providers and community resources when appropriate; and
 - (vi) Nurse midwifery services (when appropriate).
- (2) In providing such services—
- (i) The physical, emotional, social, and economic status, as well as the cultural and environmental backgrounds, of individuals, families, and communities (where applicable) are considered;
 - (ii) The client is provided access to the health care system; and
 - (iii) A single provider or team of providers, along with the client, is responsible for the continuing coordination and management of all aspects of basic health services needed for individual and family care.

4. Section 57.2403 is amended by revising (a)(1), (b)(1), (b)(2) introductory text, (b)(2)(iii), and (b)(3) to read as follows:

§ 57.2403 Eligibility.

- (a) * * *
- (1) Be a public or nonprofit private school of nursing or public health, a public or nonprofit private school of medicine which received grants under this subpart prior to October 1, 1985, public or nonprofit private hospital; or other public or nonprofit private entity; and
- (b) * * *
- (1) A project to plan, develop, and operate a program for the education of nurse practitioners or nurse midwives (which will be in operation no later than 12 months after the award of a grant under this subpart);
- (2) A project to expand a program for the education of nurse practitioners or nurse midwives through one or a combination of the following activities;
- (iii) The addition of a new education site for the total program; or
- (3) A project to maintain a program for the education of nurse practitioners and nurse midwives.

5. Section 57.2404 is amended by removing paragraph (c)(8); by redesignating paragraph (c)(9) as (c)(8); by revising paragraphs (c)(1)(ii), (c)(1)(viii), (c)(1)(ix), (c)(1)(xii), and (d); and by adding the OMB approval number at the end of the section to read as follows:

§ 57.2404 Application.

- (c) * * *
- (1) * * *
- (ii) A description of the setting in which the education program will be conducted and the primary health care needs to which such program will be responsive.
- (viii) A plan and methodology for evaluating the education program in accordance with the requirements of § 57.2405(c).
- (ix) Where the education includes a preceptorship, a description of such preceptorship, including length, type of practice, and amount of faculty supervision.
- (xii) In the case of a project to expand a nurse practitioner or nurse midwifery education program, a description of the manner in which the program is to be expanded and a plan for achieving such expansion during the project period.

(d) The application shall contain an assurance satisfactory to the Secretary that—

- (1) In the case of a project to plan, develop, and operate a program for the education of nurse practitioners or nurse midwives, such program will upon its development meet the guidelines set forth in the Appendix of this subpart, or
- (2) In the case of a project to expand or maintain a program for the education of nurse practitioners or nurse midwives, such program meets the guidelines set forth in the Appendix to this subpart.

(Approved by the Office of Management and Budget (OMB) under control number 0915-0060)

6. Section 57.2405 is amended by revising paragraphs (a), (b), and (c) introductory text, and by adding the OMB approval number at the end of the section to read as follows:

§ 57.2405 Project requirements.

- (a) The project shall conduct its program for the education of nurse practitioners or nurse midwives in accordance with the guidelines prescribed by the Secretary and set forth in the Appendix to this subpart.
- (b) The program director shall be responsible for the conduct of the education program unless replaced by another individual found by the Secretary to be qualified to carry out such responsibilities. Where the program director becomes unable to function in such capacity, the Secretary shall be notified as soon as possible.

(c) In accordance with the plan set forth in its approved application, the project shall collect, evaluate, and make available to the Secretary data concerning the education program being conducted. Such data collection and evaluation shall include, at a minimum:

(Approved by the Office of Management and Budget (OMB) under control number 0915-0060)

7. Section 57.2406 is amended by revising paragraphs (a)(1)(ii), (a)(2)(i), (a)(2)(ii), (a)(3), and (b)(1) to read as follows:

§ 57.2406 Evaluation and grant awards.

- (a) * * *
- (1) * * *
- (ii) The potential effectiveness of the proposed project in carrying out the education purposes of section 822 of the Act and this subpart;

(2) * * *

- (i) Projects for programs for the education of nurse practitioners or nurse midwives who will practice in health manpower shortage areas (designated under section 332 of the Act); and

- (ii) Projects for education programs which emphasize education respecting the special problems of geriatric patients (particularly problems in the delivery of preventive care, acute care, and long-term care, including home health care and institutional care to such patients) and education to meet the particular needs of nursing home patients and patients confined to their homes.

(3) The Secretary will also give special consideration to:

- (i) Projects for nurse practitioner or nurse midwifery programs which will award academic credit to students who successfully complete the education program; and

- (ii) Applicants with programs in place to recruit and retain minority students.

(b) *Grant awards.* (1) The Secretary will determine the amount of any award on the basis of his or her estimate on the sum necessary for the cost (including both direct and indirect costs) of the project.

8. Section 57.2408 is amended by removing paragraph (b); by redesignating paragraph (c) as (b); and by revising newly redesignated paragraph (b) to read as follows:

§ 57.2408 Expenditure of grant funds.

(b) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period

may be carried forward to the next budget period, for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

9. Section 57.2409 is revised to read as follows:

§ 57.2409 What additional Department regulations apply to grantees?

Several other regulations apply to grants under this subpart. These include, but are not limited to:

45 CFR Part 50, Subpart D—*Public Health Service Grant Appeals Procedure*.

45 CFR Part 16—*Procedures of the Departmental Grant Appeals Board*.

45 CFR Part 46—*Protection of Human Subjects*.

45 CFR Part 74—*Administration of Grants*.

45 CFR Part 75—*Informal Grant Appeals Procedures*.

45 CFR Part 80—*Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964*.

45 CFR Part 81—*Practice and Procedure for Hearings Under Part 80 of This Title*.

45 CFR Part 83—*Regulation for the Administration and Enforcement of Sections 799A and 845 of the Public Health Service Act*.¹

45 CFR Part 84—*Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance*.

45 CFR Part 86—*Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance*.

45 CFR Part 91—*Nondiscrimination on the Basis of Age in HHS Programs Activities Receiving Federal Financial Assistance*.

§§ 57.2410, 57.2411, 57.2412, 57.2413 [Removed]

10. Sections 57.2410 *Human subjects*, 57.2411 *Grantee accountability*, 57.2412 *Publications and copyright*, and 57.2413 *Applicability of 45 CFR Part 74* are removed in their entirety.

§ 57.214 [Redesignated as § 57.2410]

11. Section 57.2414 is redesignated as 57.2410.

1. The heading of the appendix to 42 CFR Part 57, Subpart Y is revised to read as follows:

Appendix—Guidelines for Nurse Practitioner and Nurse Midwifery Programs

2. Section A. *Definitions* is amended by revising paragraph 1; by redesignating paragraph 3 as paragraph 4; by revising newly redesignated paragraph 4e; and by adding new paragraphs 3 and 4f to read as follows:

A. *Definitions*. 1. "Programs for the education of nurse practitioners or nurse midwives" means a full-time educational program for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meets the guidelines prescribed herein and which has as its objective the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in such program be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, where appropriate, and other health care institutions.

3. "Nurse-midwife" means a registered nurse who has completed a formal program of study designed to prepare registered nurses to perform in an expanded role in the delivery of primary health care to women and babies including the management of normal antepartum, intrapartum, and postpartum care as well as family planning and gynecology.

4. e. Referral to other health care providers and community resources when appropriate; and

f. Nurse midwifery services (where appropriate).

3. Section B. *Organization and administration* is amended by revising paragraph 1 to read as follows:

B. *Organization and administration*. 1. A nurse practitioner or nurse midwifery education program shall have active collaboration with nurses and physicians who have expertise relevant to the nurse practitioner or nurse midwife role and primary health care, to assist in the planning, development, and operation of such a program. In addition, where the institution or organization conducting the program is other than a school of nursing, medicine, or public health, such collaboration shall be with

nurses and physicians who are affiliated with either a collegiate school of nursing, school of medicine, or school of public health.

4. Section C. *Student enrollment* is revised to read as follows:

C. *Student enrollment*. 1. A nurse practitioner or nurse midwifery education program shall have an enrollment of not less than eight full-time equivalent students in each class.

2. All students enrolled in a nurse practitioner or nurse midwifery education program must be licensed to practice nursing (a) at the time of enrollment, or (b) in the case of a program leading to a graduate degree in nursing, at or prior to the time of completion of a program.

3. The policies for the recruitment and selection of students shall be consistent with the requirements of the sponsoring institution and developed in cooperation with the faculty responsible for conducting the education. Admission criteria shall take into consideration the educational background and work experience of applicants.

5. Section D. *Length of program* is revised to read as follows:

D. *Length of program*. A nurse practitioner or nurse midwifery education program shall be a minimum of one academic year (or nine months) in length and shall include at least four months (in the aggregate) of classroom instruction.

6. Section E. *Curriculum* is revised to read as follows:

E. *Curriculum*. 1. A nurse practitioner or nurse midwifery education program shall be a discrete program consisting of classroom instruction and faculty-supervised clinical practice designed to teach registered nurses the knowledge and skills needed to perform the functions of a nurse practitioner or nurse midwife specified in the definition of that term as set forth in these guidelines. The curriculum shall be developed and implemented cooperatively by nurse educators, physicians, and appropriate representatives of other health disciplines. The following are examples of broad areas of program content which should be included: Communications and interviewing (history taking); basic physical examination including basic pathophysiology; positive health maintenance; care during acute and chronic phases of illness; management of chronic illness; health teaching and counseling; role realignment and establishment of collaborative roles with physicians and other health care providers; and community resources. The program content, both classroom instruction and clinical practice, should be developed so that the nurse practitioner or nurse midwife is prepared to provide primary health care as defined in these guidelines.

2. The curriculum may include a preceptorship, in which the student is assigned to a designated preceptor (a nurse practitioner, nurse midwife, or physician) who is responsible for teaching, supervising, and evaluating the student and for providing

¹ Section 799A of the Public Health Service Act was redesignated as section 704 by Pub. L. 94-484; section 845 of the Public Health Service Act was redesignated as section 855 by Pub. L. 94-63.

the student with an environment which permits observation and active participation in the delivery of primary health care. If a preceptorship is included, it shall be under the direction and supervision of the faculty.

7. Section F. *Faculty qualifications* is revised to read as follows:

F. Faculty qualifications. A nurse practitioner or nurse midwifery education program shall have a sufficient number of qualified nursing and medical (and other related professional) faculty with academic preparation and clinical expertise relevant to their areas of teaching responsibility and with demonstrated ability in the development and implementation of educational programs.

8. Section G. *Resources* is amended to revise paragraphs 1 and 2 to read as follows:

G. Resources. 1. A nurse practitioner or nurse midwifery education program shall have available sufficient educational and clinical resources including a variety of practice settings, particularly in ambulatory care.

2. Clinical practice facilities shall be adequate in terms of space and equipment, number of clients, diversity of client age, and need for care, number of students enrolled in the program, and other students using the facility for education purposes.

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42 CFR Part 57

Grants for Advanced Nurse Training Programs

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: These final regulations amend existing regulations governing the program of Grants for Advanced Nurse Training, authorized by section 821 of the Public Health Service Act (the Act) by revising the eligibility criteria to specify that up to 1 year of planning time be allowed for all projects to plan, develop and operate an advanced nurse education program. These regulations also revise the regulations to incorporate the amendments made to section 821 of the Act by Pub. L. 99-92, the Nurse Education Amendments of 1985, enacted on October 22, 1985; by Pub. L. 99-129, the Health Professions Training Assistance Act enacted on October 22, 1985; and by Pub. L. 99-239, the Compact of Free Association Act of 1985, enacted on January 14, 1986.

EFFECTIVE DATE: These regulations are effective on July 21, 1987, except § 57.2504(c)(14) and (c)(15) which will be effective upon OMB approval.

FOR FURTHER INFORMATION CONTACT: Ms. Jo Eleanor Elliott, Director, Division

of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number 301 443-5786.

SUPPLEMENTARY INFORMATION: On November 28, 1986, the Assistant Secretary for Health, Department of Health and Human Services, with the approval of the Secretary, published in the *Federal Register* (51 FR 43048), a Notice of Proposed Rulemaking (NPRM) to amend the existing regulations governing the Grants for Advanced Nurse Training authorized by section 821 of the Public Health Service Act (the Act), by specifying under the eligibility criteria (§ 57.2503) that up to 1 year of planning time be allowed for grants to plan, develop and operate an advanced nurse education program.

In the NPRM, the Department also proposed the following clarifying and ministerial changes to conform the existing regulations with Pub. L. 99-92 and with Pub. L. 99-129 as follows:

1. Revise the title of 42 CFR Part 57, Subpart Z from "Grants for Advanced Nurse Training Programs" to "Grants for Advanced Nurse Education Programs," and strike out the word "training" and insert in lieu thereof "education" wherever it appears in the text.

2. Revise § 57.2501, "Applicability," to include as eligible the projects which prepare nurse researchers and substitute "public and private nonprofit" for "public and nonprofit private" when referring to collegiate schools of nursing.

3. Revise § 57.2502, "Definitions," to change the following terms:

(a) the definition of "State" by striking out "the Canal Zone" and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands";

(b) the definition of "Advanced nurse education program" to specify the level of education in nursing from "graduate degree" to "masters' and doctoral degrees", and add "researchers" to the fields of nurse specialties that require advanced education; and

(c) the definition of "Collegiate school of nursing" to specify the level of education in nursing from "graduate degree" to "masters' and doctoral degrees."

4. Revise § 57.2503, "Eligibility," to: (a) clarify the applicant eligibility criteria by substituting "public or private nonprofit" for "public or nonprofit private" when referring to collegiate schools of nursing; and

(b) clarify the project eligibility criteria by deleting the words "significantly" and "existing" when referring to a project to expand or

maintain an advanced nurse education program and add research as a specialty area for project eligibility.

5. Revise § 57.2506, "Evaluation and grant awards," (b) *Funding preference*, to clarify the method for funding applications and to add a funding priority for education projects in geriatric and gerontological nursing.

It was also proposed to amend the existing regulations to emphasize the national need to train more minority and financially needy students, and to require that applicants include as part of their applications a plan for sustaining a project beyond the period during which Federal support is available. These amendments were proposed as follows:

1. Revise § 57.2504, "Application," to include two additional application requirements for: (a) A plan to attract and retain a higher than average number of minority and financially needy students; and (b) a plan to sustain the project beyond the period during which Federal assistance is available.

2. Revise § 57.2506, "Evaluation and grant awards," (a) *Evaluation*, to include among other evaluation factors the degree to which the applicant proposes to attract, retain and graduate minority and financially needy students; and (b) *Funding preference*, to add a special consideration for projects which include a plan to attract and retain minority and financially needy students.

The public comment period on the proposed regulations closed on January 27, 1987. The Department received no comments. Therefore, the amendments set out in the November 20, 1986, NPRM are adopted as proposed.

These final regulations include a number of additional technical and ministerial amendments to the existing regulations. These revisions are necessary in order to conform the regulations to amendments made by Pub. L. 99-239, and to incorporate current departmental boilerplate language. Since the amendments are of a ministerial and technical nature, the Secretary has determined pursuant to 5 U.S.C. 533 and departmental policy that it is unnecessary and impractical to follow proposed rulemaking procedures. The revisions are summarized below according to the section numbers and titles of the regulations:

1. Revise § 57.2502, "Definitions," to amend the definition of "State" by inserting after the "Trust Territory of the Pacific Islands" those entities which, for purposes of this grant program, are viewed as a State, "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of