AMENDMENT TO
RULES COMMITTEE PRINT 117–33
OFFERED BY MRS. HARTZLER OF MISSOURI

Add at the end of title VII the following new sections:

SEC. 7. NON-APPLICABILITY OF NON-DEPARTMENT OF VETERANS AFFAIRS COVENANTS NOT TO COMPETE TO APPOINTMENT OF VETERANS HEALTH ADMINISTRATION PERSONNEL.

(a) IN GENERAL.—Subchapter I of chapter 74 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 7414. Effect of non-Department covenants not to compete

“(a) NON-APPLICABILITY.—Except as provided in subsection (b), in the case of an individual who is an applicant for appointment to a position in the Veterans Health Administration described in section 7401 of this title, any covenant not to compete into which the individual has entered with a non-Department facility or party shall have no force or effect with respect to the appointment of the individual to such a position.
“(b) SERVICE OBLIGATION.—(1) Any individual who is appointed to such a position in the Veterans Health Administration shall, as a condition of such appointment, agree to provide clinical services at a Department medical facility for the duration of the period described in paragraph (2).

“(2) The period described in this paragraph is the period that begins on the date on which an individual is appointed to such a position and ends on the latter of the following dates:

“(A) The date that is one year after such date of appointment.

“(B) The date of the termination of any covenant not to compete entered into between the individual and a non-Department facility or party.

“(3) The Secretary may waive the requirement under paragraph (1) with respect to an individual at the discretion of the Secretary.

“(c) TERMINATION OF DEPARTMENT EMPLOYMENT.—In the case of an individual who is appointed to such a position in the Veterans Health Administration who has entered into a covenant not to compete that is rendered non-applicable pursuant to subsection (a), if the individual’s employment at the Veterans Health Administration is terminated for any reason before the specified
termination date of such covenant, subsection (a) shall not
apply with respect to such covenant after the date of the
termination of the individual’s employment at the Vet-
erans Health Administration.

“(d) COVENANT NOT TO COMPETE.—In this section,
the term ‘covenant not to compete’ means an agreement—

“(1) between an employee and employer or a
contractor and principal that restricts such employee
or contractor from performing—

“(A) any work for another employer for a
specified period of time;

“(B) any work in a specified geographical
area; or

“(C) work for another employer per-
forming work that is similar to the work such
employee or contractor performed for the em-
ployer or principal, included as a party to the
agreement; and

“(2) that is entered into after the date of enact-
ment of this Act.”.

(b) CLERICAL AMENDMENT.—The table of sections
at the beginning of such chapter is amended by inserting
after the item relating to section 7413 the following new
item:

“7414. Effect of non-Department covenants not to compete.”.
SEC. 7. RECRUITMENT OF PHYSICIANS ON A CONTINGENT BASIS PRIOR TO COMPLETION OF TRAINING REQUIREMENTS.

Section 7402 of title 38, United States Code, is amended—

(1) in subsection (b)(1)—

(A) in the matter preceding subparagraph (A) by inserting “or to be offered an appointment to such position on a contingent basis under subsection (h)” after “position”; and

(B) by striking subparagraph (B) and inserting the following:

“(B)(i) have completed a residency leading to board eligibility in a specialty, satisfactory to the Secretary; or

“(ii) with respect to an offer for an appointment on a contingent basis under subsection (h), complete such a residency by not later than two years after the date of such offer; and”; and

(2) by adding at the end the following new subsection:

“(h)(1) The Secretary may appoint an individual under subsection (b)(1) on a contingent basis in accordance with this subsection if the Secretary reasonably anticipated that the individual will have completed the requirements for appointment under such subsection (b)(1)
by not later than two years after the date on which the individual is so appointed.

“(2) An individual who is appointed to a position on a contingent basis under paragraph (1) shall be appointed to such position on a permanent basis if, by not later than two years after the date of the contingent appointment, the individual completes all the requirements for appointment under subsection (b)(1).

“(3) An individual who is appointed on a contingent basis under paragraph (1) who fails to complete the requirements for appointment under subsection (b)(1) by not later than two years after the date on which the individual is so appointed may not be appointed to such position on a permanent basis.”.