



# Department of Defense INSTRUCTION

NUMBER 1400.25, Volume 541

December 1996

Administratively reissued June 15, 2009

---

---

USD(P&R)

**SUBJECT:** DoD Civilian Personnel Management System: Pay Pursuant to Title 38--Special Rules for Nurses Pursuant to the Baylor Plan

- References:**
- (a) Sections 1104, 5304, 5371, and 5504 of title 5, United States Code
  - (b) Sections 7453-7456 of title 38, United States Code
  - (c) Delegation Agreements Between the Office of Personnel Management and the Department of Defense, "Use of Certain Personnel Authorities for Healthcare Occupations," November 30, 1993, and December 20, 1993
  - (d) DoD Directive 1400.25, "DoD Civilian Personnel Management System," November 25, 1996
  - (e) Parts 551 and 630 of title 5, Code of Federal Regulations
  - (f) Chapter 8 of title 29, United States Code

## 1. PURPOSE

a. Instruction. This Instruction is composed of several Volumes, each containing its own purpose. The purpose of the overall Instruction is to establish and implement policy, establish uniform DoD-wide procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the Department of Defense.

b. Volume. This Volume of this Instruction provides rules for scheduling work and compensating nurses pursuant to section 5371 of Reference (a) and section 7456 of Reference (b) (commonly known and hereafter referred to as the "Baylor Plan"); provides procedures to ensure that such schedules and compensation are implemented consistently and appropriately as provided by section 1104 of Reference (a) and Reference (c).

2. APPLICABILITY. When authorized for use, this Volume applies to nurses who provide direct patient care services and whose basic workweek consists of two regularly-scheduled 12-hour tours of duty on weekends. A nurse covered by this Volume is considered to be a full-time employee for ALL personnel management purposes.

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoD policy pursuant to DoD Directive 1400.25 (Reference (d)) that:

a. The Head of a DoD Component, or his or her designee, may approve the use of the Baylor Plan for a category of nurse in any DoD medical treatment facility under his or her jurisdiction. This authority may be delegated to the commander of a medical treatment facility or its equivalent, but no lower.

b. The decision to approve the use of the Baylor Plan for a category of nurse must be coordinated with the commander(s) and/or director(s) of all other Federal healthcare facilities in the local area to ensure that all Federal nurses in the same situations are treated in the same manner. Dissimilar staffing situations may be considered to be dissimilar situations.

c. The lead agent of the appropriate military health services region must be notified when any provision of the Baylor Plan is implemented within that region. The lead agent may monitor the use of Baylor Plan provisions implemented within the region to determine the impact on healthcare delivery options.

d. Authority to use the Baylor Plan will be approved based on recruitment and retention problems caused by local private and non-Federal public scheduling practices for a category of nurse and presupposes all other available recruitment and retention strategies have been exhausted.

e. When necessary to obtain or retain the services of a category of nurse at a particular activity, the medical treatment facility commander may authorize payment of overtime pay pursuant to section 7453(e) of Reference (b) for all or part of ANY officially-ordered and -approved work performed in excess of 40 hours in an administrative workweek, including those regularly-scheduled hours of work comprising the Baylor workweek.

f. The medical treatment facility commander shall ensure that all qualified nurse employees are provided fair and consistent treatment with regard to opportunities to work pursuant to the Baylor Plan.

g. The medical treatment facility commander may terminate use of the Baylor Plan for a category of nurse pursuant to this section when such pay is no longer necessary to meet recruitment or retention needs. Such termination is not an adverse action. However, an affected employee must be notified of the intent to terminate use of the Baylor Plan as soon as practicable before such use is terminated.

5. PROCEURES. The enclosure provides procedures for scheduling work and compensating nurses pursuant to the Baylor Plan.

6. RELEASABILITY. UNLIMITED. This Volume is approved for public release and is available on the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

7. EFFECTIVE DATE. This Volume is effective immediately.

Enclosures  
Procedures  
Glossary

TABLE OF CONTENTS

PROCEDURES.....5

    DOCUMENTATION FOR USE OF THE BAYLOR PLAN .....5

    ADMINISTRATION OF THE BAYLOR PLAN .....5

    COMPUTATION OF PAY .....5

    OVERTIME PAY .....6

    TREATMENT OF HOLIDAYS AND LEAVE .....6

    RECORD-KEEPING REQUIREMENTS .....7

GLOSSARY .....8

    DEFINITIONS.....8

ENCLOSURE

PROCEDURES

1. DOCUMENTATION FOR USE OF THE BAYLOR PLAN. Decisions to use the Baylor Plan must be prepared by the commander of a medical treatment facility and must include information required by the Deputy Assistant Secretary of Defense for Health Services Operations, as well as a certification that sufficient funds exist to cover the costs of implementing the plan.

2. ADMINISTRATION OF THE BAYLOR PLAN

a. A nurse on the Baylor Plan is deemed to be a full-time employee for all personnel management purposes including retirement, life insurance, health insurance, workers compensation, reduction-in-force purposes, etc.

b. A nurse on the Baylor Plan performing work OUTSIDE the Baylor workweek is eligible for any applicable additional pay pursuant to section 7453 of Reference (b) and Volume 540 of this Instruction, including tour differential, holiday pay, and pay for on-call and weekend duty for that work.

c. A nurse on the Baylor Plan is not entitled to additional or premium pay pursuant to section 7453 of Reference (b) or any other applicable law for any period included in his or her regularly-scheduled 12-hour tour of duty.

d. When determining the creditability of hours of leave without pay for a within-grade increase for a nurse on the Baylor Plan, the number of hours of leave without pay shall be increased by a ratio of 5 hours charged for each 3 hours taken (that is, each hour of leave without pay will be multiplied by 1.66667.)

3. COMPUTATION OF PAY. A nurse on the Baylor Plan is entitled to an hourly rate of basic pay calculated:

a. By dividing the employee's annual rate of basic pay by 1248 (rounded to the nearest whole cent, counting .5 cents and over as 1 cent) for each hour of service DURING the nurse's Baylor workweek. (In effect, the hourly rate for a nurse on the Baylor Plan equals 1.6722756 of the nurse's hourly rate of basic pay calculated using the 2087 divisor.)

b. Calculated using the 2087 divisor (rounded to the nearest whole cent, counting .5 cents and over as 1 cent) as provided by section 5504 of Reference (a) for each hour of work OUTSIDE the nurse's Baylor workweek that is not determined to be overtime work pursuant to paragraph 4.e. of the front matter of this Volume.

#### 4. OVERTIME PAY

a. A nurse on the Baylor Plan is entitled to overtime pay pursuant to section 7453(e) of the Reference (b) calculated using the 2087 divisor as provided in paragraphs 3.a. and 3.b. of this enclosure for each hour of work that is:

(1) Within the period beginning at midnight on Friday and ending at midnight the following Sunday, in excess of his or her two regularly-scheduled tours of duty;

(2) In excess of 8 hours on a weekday (that is, not within the Baylor workweek); or,

(3) When approved pursuant to paragraph 4.e. of the front matter of this Volume, all or part of any hours officially ordered and approved in excess of 40 hours in an administrative week.

b. Hours of work during the Baylor workweek shall be credited on an hour-for-hour basis when determining the total hours of work performed during an administrative workweek.

c. A nurse covered by paragraph 4.a. through 4.d. of this enclosure is exempt from subpart E of part 551 of title 5, Code of Federal Regulations (Reference (e)) and chapter 8 of title 29, U.S.C. (Reference (f)).

d. Compensatory time off in lieu of overtime pay is prohibited for a nurse on the Baylor Plan.

#### 5. TREATMENT OF HOLIDAYS AND LEAVE

a. A nurse on the Baylor Plan who is excused or prevented from working on a holiday that falls on a regularly-scheduled workday during the Baylor workweek may not be charged leave or lose pay for that holiday.

b. Annual and sick leave is charged at a rate of 5 hours for each 3 hours of absence.

c. Accrued annual leave donations and/or contributions made pursuant to subparts I and J of part 630 of Reference (e) are deducted from a nurse's leave balance on an hour-for-hour basis. When a nurse is in a shared leave status (i.e., using transferred leave pursuant to subparts I and J of part 630 of Reference (e)), he or she is charged 5 hours of leave for each 3 hours of absence.

d. Military leave and court leave are the only types of leave that may be applied, as appropriate, to workdays outside the nurse's Baylor workweek.

e. Upon separation or retirement, a nurse on the Baylor Plan is entitled to a lump-sum payment for his or her accrued and accumulated annual leave based on the employee's hourly

rate of basic pay calculated using the 2087 divisor as provided in paragraphs 3.a. and 3.b. of this enclosure.

6. RECORD-KEEPING REQUIREMENTS. The commander of a medical or dental treatment facility or its equivalent and the affected director of personnel shall keep adequate records to evaluate the use of this authority as required by the Assistant Secretary of Defense for Health Affairs. Such records shall include:

- a. How the authority is used by the facility;
- b. The location of the facility;
- c. The type of occupations covered; and
- d. Any other pertinent data that may be required to evaluate the overall use of the authority by the Department of Defense or OPM.

GLOSSARY

DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this Volume.

additional pay. A premium paid to a nurse for work outside the Baylor workweek under circumstances or conditions authorized by section 7453 of Reference (b). Such pay includes tour differential, holiday pay, overtime pay, and pay for weekend or on-call duty.

administrative workweek. A period of 7 consecutive calendar days coinciding with the calendar week, Sunday through Saturday.

Baylor workweek. Two regularly-scheduled 12-hour tours of duty entirely within the first and last day of the administrative work week; i.e., Sunday and Saturday. The Baylor workweek is considered to be a full 40-hour workweek for pay and leave accrual purposes.

Baylor Plan. Two regularly-scheduled 12-hour tours of duty entirely within the period beginning at midnight Friday and ending at midnight the following Sunday.

category of nurse. A nurse or group of nurses who performs service within a specialization of the nursing occupation; e.g., operating room nurse, critical care nurse, etc.

lead agent. The officer who, in addition to commanding a medical center within one of twelve geographic regions within the United States, is responsible for coordinating healthcare initiatives within the region. The lead agent has no direct authority over the tri-Service commanders within the region. However, he or she works in a collaborative manner with Military Health Services System partners to manage the delivery of healthcare within the region.

medical treatment facility. A DoD health facility staffed and equipped to provide inpatient and/or outpatient medical care to eligible beneficiaries. It may be affiliated with or independent of a dental treatment facility. A medical treatment facility is funded by the Defense Health Program.

nurse. A registered nurse, nurse anesthetist, or licensed practical or vocational nurse; does NOT include a graduate nurse technician or student nurse technician.

rate of basic pay. The rate of pay fixed by law or administrative action for the position held by the employee including any locality pay pursuant to section 5304 of Reference (a) or special salary rate authorized by section 5305 of Reference (a) and section 7455 of Reference (b).

tour of duty. The hours of a day and the days of an administrative workweek that constitute an employee's regularly-scheduled workweek including regularly-scheduled overtime work.



weekend. The period commencing at midnight on Friday and ending at midnight the following Sunday.