Suspend the Rules And Pass the Bill, H.R. 2256, with Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

114TH CONGRESS
1ST SESSION

H.R. 2256

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to submit an annual report on the Veterans Health Administration and the furnishing of hospital care, medical services, and nursing home care by the Department of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2015

Mr. BENISHEK introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to submit an annual report on the Veterans Health Administration and the furnishing of hospital care, medical services, and nursing home care by the Department of Veterans Affairs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited a the ''Veterans Information Modernization Act''.

SEC. 2. ANNUAL REPORT ON VETERANS HEALTH ADMINISTRATION AND FURNISHING OF HOSPITAL CARE, MEDICAL SERVICES, AND NURSING HOME CARE.

(a) IN GENERAL.—Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 7330B. Annual report on Veterans Health Administration and furnishing of hospital care, medical services, and nursing home care

''(a) REPORT REQUIRED.—Not later than March 1 during each of years 2016 through 2020, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the furnishing of hospital care, medical services, and nursing home care under the laws administered by the Secretary and on the administration of the provision of such care and services by the Veterans Health Administration during the calendar year preceding the calendar year during which the report is submitted.

''(b) CONTENTS OF REPORT.—Each report required by subsection (a) shall include each of the following for the year covered by the report:

''(1) An evaluation of the effectiveness of the Veterans Health Administration program in increasing the access of veterans eligible for hospital care,

medical services, and nursing home care furnished by the Secretary to such care.

''(2) An evaluation of the effectiveness of the Veterans Health Administration in improving the quality of health care provided to such veterans, without increasing the costs incurred by the Government or such veterans, which includes the relevant information for each medical center and Veterans Integrated Service Network of the Department set forth separately.

''(3) An assessment of—

''(A) the workload of physicians and other employees of the Veterans Health Administration;

''(B) patient demographics and utilization rates;

''(C) physician compensation;

''(D) the productivity of physicians and other employees of the Veterans Health Administration;

''(E) the percentage of hospital care, medical services, and nursing home care provided to such veterans in Department facilities and in non-Department facilities and any changes in

such percentages compared to the year preceding the year covered by the report;

''(F) pharmaceutical prices; and

''(G) third party health billings owed to the Department, including the total amount of such billings and the total amounts collected, set forth separately for claims greater than $1000 and for claims equal to or less than $1000.

''(c) DEFINITIONS.—In this section, the terms 'hospital care', 'medical services', 'nursing home care', and 'non-Department facilities' have the meanings given such terms in section 1701 of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7330A the following new item:

''7330B. Annual report on Veterans Health Administration and furnishing of hospital care, medical services, and nursing home care.''.

SEC. 3. EXPANSION OF DEFINITION OF HOMELESS VETERAN FOR PURPOSES OF BENEFITS UNDER THE LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

Section 2002(1) of title 38, United States Code, is amended by inserting ''or (b)'' after ''section 103(a)''.

SEC. 4. IDENTIFICATION AND TRACKING OF BIOLOGICAL IMPLANTS USED IN DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES.

(a) IN GENERAL.—Subchapter II of chapter 73 of title 38, United States Code, as amended by section 2, is further amended by adding at the end the following new section:

"§ 7330C. Identification and tracking of biological implants

''(a) STANDARD IDENTIFICATION SYSTEM FOR BIOLOGICAL IMPLANTS.—(1) The Secretary shall adopt the unique device identification system developed for medical devices by the Food and Drug Administration pursuant to section 519(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i(f)), or implement a comparable standard identification system, for use in identifying biological implants intended for use in medical procedures conducted in medical facilities of the Department.

''(2) In adopting or implementing a standard identification system for biological implants under paragraph (1), the Secretary shall permit a vendor to use any of the accredited entities identified by the Food and Drug Administration as an issuing agency pursuant to section 830.100 of title 21, Code of Federal Regulations, or any successor regulation.

''(b) BIOLOGICAL IMPLANT TRACKING SYSTEM.—(1) The Secretary shall implement a system for tracking the biological implants referred to in subsection (a) from human donor or animal source to implantation.

''(2) The tracking system implemented under paragraph (1) shall be compatible with the identification system adopted or implemented under subsection (a).

''(3) The Secretary shall implement inventory controls compatible with the tracking system implemented under paragraph (1) so that all patients who have received, in a medical facility of the Department, a biological implant subject to a recall can be notified of the recall, if based on the evaluation of appropriate medical personnel of the Department of the risks and benefits, the Secretary determines such notification is appropriate.

''(c) CONSISTENCY WITH FOOD AND DRUG ADMINISTRATION REGULATIONS.—To the extent that a conflict arises between this section and a provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or sections 351 or 361 of the Public Health Service Act (42 U.S.C. 262) (including any regulations issued under such Acts), the provision the Federal Food, Drug, and Cosmetic Act or Public Health Service Act (including any regulations issued under such Acts) shall apply.

''(d) DEFINITION OF BIOLOGICAL IMPLANT.—In this section, the term 'biological implant' means any animal or human cell, tissue, or cellular or tissue-based product—

''(1) under the meaning given the term human cells, tissues, or cellular or tissue-based products in section 1271.3 of title 21, Code of Federal Regulations, or any successor regulation; or

''(2) that is regulated as a device under section 201(h) of the Federal Food, Drug, and Cosmetic Act.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 2, is further amended by inserting after the item relating to section 7330B, as added by section 2, the following new item:

''7330C. Identification and tracking of biological implants.''.

(c) IMPLEMENTATION DEADLINES.—

(1) STANDARD IDENTIFICATION SYSTEM.—

(A) IN GENERAL.—With respect to biological implants described in paragraph (1) of subsection (d) of section 7330C of title 38, United States Code, as added by subsection (a), the Secretary of Veterans Affairs shall adopt or implement a standard identification system for biological implants, as required by subsection (a) of such section, by not later than the date that

is 180 days after the date of the enactment of this Act.

(B) IMPLANTS REGULATED AS DEVICES.—With respect to biological implants described in paragraph (2) of subsection (d) of such section, the Secretary of Veterans Affairs shall adopt or implement such standard identification system in compliance with the compliance dates established by the Food and Drug Administration pursuant to section 519(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i(f)).

(2) TRACKING SYSTEM.—The Secretary of Veterans Affairs shall implement the biological implant tracking system required by section 7330C(b), as added by subsection (a), by not later than the date that is 180 days after the date of the enactment of this Act.

(d) REPORTING REQUIREMENT.—

(1) IN GENERAL.—If the biological implant tracking system required by section 7330C(b) of title 38, United States Code, as added by subsection (a), is not operational by the date that is 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of

Representatives a written explanation for why the system is not operational for each month until such time as the system is operational.

(2) ELEMENTS.—Each explanation submitted under paragraph (1) shall include a description of the following:

(A) Each impediment to the implementation of the system described in such paragraph.

(B) Steps being taken to remediate each such impediment.

(C) Target dates for a solution to each such impediment.

SEC. 5. PROCUREMENT OF BIOLOGICAL IMPLANTS USED IN DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES.

(a) PROCUREMENT.—

(1) IN GENERAL.—Subchapter II of chapter 81 of such title is amended by adding at the end the following new section:

"§ 8129. Procurement of biological implants

''(a) IN GENERAL.—(1) The Secretary may procure biological implants of human origin only from vendors that meet the following conditions:

''(A) The vendor uses the standard identification system adopted or implemented by the Sec-

retary under section 7330C(a) of this title and has safeguards to ensure that a distinct identity code has been in place at each step of distribution of each biological implant from its donor.

''(B) The vendor is registered as required by the Food and Drug Administration under subpart B of part 1271 of title 21, Code of Federal Regulations, or any successor regulation, and in the case of a vendor that uses a tissue distribution intermediary or a tissue processor, the vendor provides assurances that the tissue distribution intermediary or tissue processor is registered as required by the Food and Drug Administration.

''(C) The vendor ensures that donor eligibility determinations and such other records as the Secretary may require accompany each biological implant at all times, regardless of the country of origin of the donor of the biological material.

''(D) The vendor agrees to cooperate with all biological implant recalls conducted on the vendor's own initiative, on the initiative of the original product manufacturer used by the vendor, by the request of the Food and Drug Administration, or by a statutory order of the Food and Drug Administration.

''(E) The vendor agrees to notify the Secretary of any adverse event or reaction report it provides to the Food and Drug Administration, as required by section 1271.350 of title 21, Code of Federal Regulations, or any successor regulation, or any successor regulation, or of any warning letter from the Food and Drug Administration issued to the vendor or a tissue processor or tissue distribution intermediary it uses by not later than 60 days after the vendor receives such report or warning letter.

''(F) The vendor agrees to retain all records associated with the procurement of a biological implant by the Department for at least 10 years after the date of the procurement of the biological implant.

''(G) The vendor provides assurances that the biological implants provided by the vendor are acquired only from tissue processors that maintain active accreditation with the American Association of Tissue Banks or a similar national accreditation specific to biological implants.

''(2) The Secretary may procure biological implants of non-human origin only from vendors that meet the following conditions:

''(A) The vendor uses the standard identification system adopted or implemented by the Secretary under section 7330C(a) of this title.

''(B) The vendor is a registered establishment as required by the Food and Drug Administration under sections 807.20 and 807.40 of title 21, Code of Federal Regulations, or any successor regulation, (or is not required to register pursuant to section 807.65(a) of such title) and in the case of a vendor that is not the original product manufacturer of such implants the vendor provides assurances that the original product manufacturer is registered as required by the Food and Drug Administration.

''(C) The vendor agrees to cooperate with all biological implant recalls conducted on the vendor's own initiative, on the initiative of the original product manufacturer used by the vendor, by the request of the Food and Drug Administration, or by a statutory order of the Food and Drug Administration.

''(D) The vendor agrees to notify the Secretary of any adverse event report it provides to the Food and Drug Administration as required in part 803 of title 21, Code of Federal Regulations, or any warning letter from the Food and Drug Administration issued to the vendor or the original product manu-

facturer it uses by not later than 60 days after the vendor receives such report or warning letter.

''(E) The vendor agrees to retain all records associated with the procurement of a biological implant by the Department for at least 10 years after the date of the procurement of the biological implant.

''(3)(A) The Secretary shall procure biological implants under the Federal Supply Schedules of the General Services Administration unless such implants are not available under such Schedules.

''(B) With respect to biological implants listed on the Federal Supply Schedules, the Secretary shall accommodate reasonable vendor requests to undertake outreach efforts to educate medical professionals of the Department about the use and efficacy of such biological implants.

''(C) In the case of biological implants that are unavailable for procurement under the Federal Supply Schedules, the Secretary shall procure such implants using competitive procedures in accordance with applicable law and the Federal Acquisition Regulation.

''(4) Section 8123 of this title shall not apply to the procurement of biological implants.

''(b) PENALTIES.—In addition to any applicable penalty under any other provision of law, any procurement employee of the Department who is found responsible for

a biological implant procurement transaction with intent to avoid or with reckless disregard of the requirements of this section shall be ineligible to hold a certificate of appointment as a contracting officer or to serve as the representative of an ordering officer, contracting officer, or purchase card holder.

''(c) DEFINITIONS.—In this section:

''(1) The term 'biological implant' shall have the meaning given such term in section 7330C(d) of this title.

''(2) The term 'distinct identity code' means a code that—

''(A) relates a biological implant to the human donor of the implant and to all records pertaining to the implant;

''(B) includes information designed to facilitate effective tracking, using such code, from the donor to the recipient and from the recipient to the donor; and

''(C) satisfies the requirements of section 1271.290 of title 21, Code of Federal Regulations, or any successor regulation.

''(3) The term 'tissue distribution intermediary' means an agency that acquires and stores human

tissue for further distribution and performs no other tissue banking functions.

''(4) The term 'tissue processor' means an entity processing human tissue for use in biological implants including activities performed on tissue other than donor screening, donor testing, tissue recovery and collection functions, storage, or distribution.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end of the items relating to such subchapter the following new item:

''8129. Procurement of biological implants.''.

(b) EFFECTIVE DATE.—Section 8129 of title 38, United States Code, as added by subsection (a), shall take effect on the date that is 180 days after the date on which the tracking system required under subsection (b) of section 7330C of such title, as added by section 4(a) is implemented.

(c) SPECIAL RULE FOR CRYOPRESERVED PRODUCTS.—During the three-year period beginning on the effective date of section 8129 of title 38, United States Code, as added by subsection (a), biological implants produced and labeled before that date may be procured by the Department of Veterans Affairs without relabeling under the standard identification system adopted or imple-

mented under section 7330C of such title, as added by section 4(a).

SEC. 6. EXTENSION OF ROUNDING DOWN OF PERCENTAGE INCREASES OF RATES OF CERTAIN EDUCATIONAL ASSISTANCE.

(a) MONTGOMERY GI BILL.—Section 3015(h)(2) of title 38, United States Code, is amended—

(1) by striking ''fiscal year 2014'' and inserting ''fiscal year 2020''; and

(2) by striking ''fiscal year 2013'' and inserting ''fiscal year 2019''.

(b) SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.—Section 3564(b) of such title is amended—

(1) by striking ''fiscal year 2014'' and inserting ''fiscal year 2020''; and

(2) by striking ''fiscal year 2013'' and inserting ''fiscal year 2019''.

SEC. 7. VETERANS EXPEDITED RECOVERY COMMISSION.

(a) ESTABLISHMENT.—There is established the Veterans Expedited Recovery Commission (in this section referred to as the ''Commission'').

(b) DUTIES.—The Commission shall perform the following duties:

(1) Examine the efficacy of the evidence-based therapy model used by the Secretary of Veterans Af-

fairs for treating mental health illnesses of veterans and identify areas to improve wellness-based outcomes.

(2) Conduct a patient-centered survey within each of the Veterans Integrated Service Networks to examine—

(A) the experience of veterans with the Department of Veterans Affairs when seeking medical assistance for mental health issues through the health care system of the Department;

(B) the experience of veterans with non-Department medical facilities and health professionals for treating mental health issues;

(C) the preferences of veterans regarding available treatments for mental health issues and which methods the veterans believe to be most effective;

(D) the experience, if any, of veterans with respect to the complementary alternative treatment therapies described in subparagraphs (A) through (I) in paragraph (3);

(E) the prevalence of prescribing prescription medication among veterans seeking treatment through the health care system of the De-

partment as remedies for addressing mental health issues; and

(F) the outreach efforts of the Secretary regarding the availability of benefits and treatments for veterans for addressing mental health issues, including by identifying ways to reduce barriers to and gaps in such benefits and treatments.

(3) Examine available research on complementary alternative treatment therapies for mental health issues and identify what benefits could be made with the inclusion of such treatments for veterans, including with respect to—

(A) music therapy;

(B) equine therapy;

(C) training and caring for service dogs;

(D) yoga therapy;

(E) acupuncture therapy;

(F) meditation therapy;

(G) outdoor sports therapy;

(H) hyperbaric oxygen therapy;

(I) accelerated resolution therapy; and

(J) other therapies the Commission determines appropriate.

(4) Study the potential increase of claims relating to mental health issues submitted to the Secretary by veterans who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn, including an assessment of the resources available within the Department to ensure that quality health care demands relating to such claims can be delivered in a timely manner.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 10 members, appointed as follows:

(i) Two members appointed by the Speaker of the House of Representatives, at least one of whom shall be a veteran.

(ii) Two members appointed by the Minority Leader of the House of Representatives, at least one of whom shall be a veteran.

(iii) Two members appointed by the Majority Leader of the Senate, at least one of whom shall be a veteran.

(iv) Two members appointed by the Minority Leader of the Senate, at least one of whom shall be a veteran.

(v) Two members appointed by the President, at least one of whom shall be a veteran.

(B) QUALIFICATIONS.—Members of the Commission shall be—

(i) individuals who are of recognized standing and distinction within the medical community with a background in treating mental health;

(ii) individuals with experience working with the military and veteran population; and

(iii) individuals who do not have a financial interest in any of the complementary alternative treatments reviewed by the Commission.

(2) CHAIRMAN.—The President shall designate a member of the Commission to be the chairman.

(3) PERIOD OF APPOINTMENT.—Members of the Commission shall be appointed for the life of the Commission.

(4) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) APPOINTMENT DEADLINE.—The appointment of members of the Commission in this section shall be made not later than 90 days after the date of the enactment of this Act.

(d) POWERS OF COMMISSION.—

(1) MEETING.—

(A) INITIAL MEETING.—The Commission shall hold its first meeting not later than 30 days after a majority of members are appointed to the Commission.

(B) MEETING.—The Commission shall regularly meet at the call of the Chairman. Such meetings may be carried out through the use of telephonic or other appropriate telecommunication technology if the Commission determines that such technology will allow the members to communicate simultaneously.

(2) HEARING.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive evidence as the Commission considers advisable to carry out the responsibilities of the Commission.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the Federal Government such information as the Commission considers necessary to carry out the duties of the Commission.

(4) INFORMATION FROM NONGOVERNMENTAL ORGANIZATIONS.—In carrying out subsection (b), the Commission may seek guidance through consultation with foundations, veterans service organizations, nonprofit groups, faith-based organizations, private and public institutions of higher education, and other organizations as the Commission determines appropriate.

(5) COMMISSION RECORDS.—The Commission shall keep an accurate and complete record of the actions and meetings of the Commission. Such record shall be made available for public inspection and the Comptroller General of the United States may audit and examine such record.

(6) PERSONNEL MATTERS.—Upon request of the chairman of the Commission, the head of any department or agency of the Federal Government may detail, on a reimbursable basis, any personnel of that department or agency to assist the Commission in carrying out the duties of the Commission.

(7) COMPENSATION OF MEMBERS; TRAVEL EXPENSES.—Each member shall serve without pay, except that each member shall receive travel expenses to perform the duties of the Commission under subsection (b), including per diem in lieu of subsistence, at rates authorized under subchapter I of chapter 57 of title 5, United States Code.

(8) STAFF.—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, without regard to the provision of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at a level IV of the Executive Schedule under section 5316 of title 5, United States Code.

(9) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission are employees under section 2105 of title 5, United

States Code, for purpose of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of such title.

(B) MEMBERS OF THE COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(10) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts to enable the Commission to discharge the duties of the Commission under this section.

(11) EXPERT AND CONSULTANT SERVICE.—The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the daily rate paid to a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(12) POSTAL SERVICE.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(13) PHYSICAL FACILITIES AND EQUIPMENT.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative

support services necessary for the Commission to carry out its responsibilities under this section. These administrative services may include human resource management, budget, leasing, accounting, and payroll services.

(e) REPORT.—

(1) INTERIM REPORTS.—

(A) IN GENERAL.—Not later than 60 days after the date on which the Commission first meets, and each 30-day period thereafter ending on the date on which the Commission submits the final report under paragraph (2), the Commission shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate and the President a report detailing the level of cooperation the Secretary of Veterans Affairs (and the heads of other departments or agencies of the Federal Government) has provided to the Commission.

(B) OTHER REPORTS.—In carrying out the duties pursuant to subsection (b), at times that the Commission determines appropriate, the Commission shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate and any other appropriate

entities an interim report with respect to the findings identified by the Commission.

(2) FINAL REPORT.—Not later than 18 months after the first meeting of the Commission, the Commission shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate, the President, and the Secretary of Veterans Affairs a final report on the findings of the Commission. Such report shall include the following:

(A) Recommendations to implement in a feasible, timely, and cost-effective manner the solutions and remedies identified within the findings of the Commission pursuant to subsection (b).

(B) An analysis of the evidence-based therapy model used by the Secretary of Veterans Affairs for treating veterans with mental health care issues, and an examination of the prevalence and efficacy of prescription drugs as a means for treatment.

(C) The findings of the patient-centered survey conducted within each of the Veterans Integrated Service Networks pursuant to subsection (b)(2).

(D) An examination of complementary alternative treatments described in subsection (b)(3) and the potential benefits of incorporating such treatments in the therapy model used by the Secretary for treating veterans with mental health issues.

(3) PLAN.—Not later than 90 days after the date on which the Commission submits the final report under subsection (b), the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the following:

(A) An action plan for implementing the recommendations established by the Commission on such solutions and remedies for improving wellness-based outcomes for veterans with mental health care issues.

(B) A feasible timeframe on when complementary alternative treatments described in subsection (b)(3) can be implemented Department-wide.

(C) With respect to each recommendation established by the Commission, including regarding any complementary alternative treatment, that the Secretary determines is not ap-

propriate or feasible to implement, a justification for each such determination and an alternative solution to improve the efficacy of the therapy model used by the Secretary for treating veterans with mental health issues.

(f) TERMINATION OF COMMISSION.—The Commission shall terminate 30 days after the Commission submits the final report under subsection (e)(2).

Amend the title so as to read: ''A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to submit an annual report on the Veterans Health Administration, to provide for the identification and tracking of biological implants used in Department of Veterans Affairs facilities, and for other purposes.''.