[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION

H. R. _____

To amend title 38, United States Code, to modify the authority of the Secretary of Veterans Affairs to enter into agreements with State homes to provide nursing home care to veterans, to direct the Secretary to carry out a program to increase the number of graduate medical education residency positions of the Department of Veterans Affairs, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. __________ introduced the following bill; which was referred to the Committee on ____________________________

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A BILL

To amend title 38, United States Code, to modify the authority of the Secretary of Veterans Affairs to enter into agreements with State homes to provide nursing home care to veterans, to direct the Secretary to carry out a program to increase the number of graduate medical education residency positions of the Department of Veterans Affairs, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. MODIFICATION OF AUTHORITY TO ENTER INTO AGREEMENTS WITH STATE HOMES TO PROVIDE NURSING HOME CARE.

(a) Use of Agreements.—

(1) In General.—Paragraph (1) of section 1745(a) of title 38, United States Code, is amended, in the matter preceding subparagraph (A), by striking “a contract (or agreement under section 1720(c)(1) of this title)” and inserting “an agreement”.

(2) Payment.—Paragraph (2) of such section is amended by striking “contract (or agreement)” each place it appears and inserting “agreement”.

(b) Treatment of Certain Laws.—Such section is amended by adding at the end the following new paragraph:

“(4)(A) An agreement under this section may be entered into without regard to any law that would require the Secretary to use competitive procedures in selecting the party with which to enter into the agreement.

“(B)(i) Except as provided in clause (ii) and unless otherwise provided in this section or in regulations prescribed pursuant to this section, a State home that enters into an agreement under this section is not subject to, in the carrying out of the agreement, any law to which providers of services and suppliers are not subject under the
original Medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or the Medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

“(ii) The exclusion under clause (i) does not apply to laws regarding integrity, ethics, fraud, or that subject a person to civil or criminal penalties.

“(C) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall apply with respect to a State home that enters into an agreement under this section to the same extent as such title applies with respect to the State home in providing care or services through an agreement or arrangement other than under this section.”.

(e) APPLICATION.—

(1) IN GENERAL.—The amendments made by this section shall apply to agreements entered into under section 1745 of such title on and after the date on which the regulations prescribed by the Secretary of Veterans Affairs to implement such amendments take effect.

(2) PUBLICATION.—The Secretary shall publish the date described in paragraph (1) in the Federal Register not later than 30 days before such date.
SEC. 2. MODIFICATION OF PROCESS THROUGH WHICH DEPARTMENT OF VETERANS AFFAIRS RECORDS OBLIGATIONS FOR NON-DEPARTMENT CARE.

(a) In General.—Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 1730B. Recording obligations for care at non-Department facilities

“The Secretary may record as an obligation of the United States Government amounts owed for hospital care or medical services furnished under this chapter at non-Department facilities on the date on which a claim by a health care provider for payment is approved rather than on the date that the hospital care or medical services are authorized by the Secretary.”.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1730A the following new item:

“1730B. Recording obligations for care at non-Department facilities.”.

SEC. 3. PROGRAM TO FILL GRADUATE MEDICAL EDUCATION RESIDENCY POSITIONS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) Program.—

(1) In General.—The Secretary of Veterans Affairs shall carry out a program to provide edu-
cational assistance under paragraph (2) to encourage individuals to fill graduate medical education residency positions that—

(A) the Secretary established pursuant to section 7302(e) of title 38, United States Code, and section 301(b)(2) of the Veterans Access, Choice, and Accountability Act of 2014 (Public Law 113–146); and

(B) are unfilled as of the date of the enactment of this Act.

(2) EDUCATIONAL ASSISTANCE.—In carrying out the program under paragraph (1), the Secretary shall provide educational assistance, as determined appropriate by the Secretary, to participants in the program.

(b) APPLICATION.—To participate in the program under this section, an individual shall submit to the Secretary an application for such participation together with an agreement described in subsection (d) under which the individual agrees to serve a period of obligated service in the Veterans Health Administration as provided in the agreement in return for payment of educational assistance as provided in the agreement.

(c) APPROVAL BY SECRETARY.—
(1) IN GENERAL.—An individual becomes a participant in the program under this section upon the approval by the Secretary of the application of the individual and the acceptance by the Secretary of an agreement described in subsection (d) with respect to the individual.

(2) NOTIFICATION.—Upon the approval by the Secretary under paragraph (1) of the participation of an individual in the program and the acceptance of an agreement described in subsection (d), the Secretary shall promptly notify the individual in writing of that approval and acceptance.

(d) AGREEMENT.—An agreement between the Secretary and a participant in the program under this section shall be in writing and shall be signed by the participant containing such terms as the Secretary may specify.

(e) CONDITIONS FOR MEDICAL RESIDENCY.—The Secretary may prescribe the conditions of employment of individuals participating in a medical residency under the program under this section, including necessary training, and the customary amount and terms of pay for such individuals during the period of such employment and training as a medical resident.

(f) OBLIGATED SERVICE.—
(1) IN GENERAL.—Each participant in the program under this section shall serve as a full-time employee of the Department of Veterans Affairs for a period of obligated service provided in the agreement entered into by the participant under subsection (d).

(2) PRACTICE AREA.—Service by a participant under paragraph (1) shall be in the full-time clinical practice of the profession of the participant or in another health care position in an assignment or location determined by the Secretary.

(3) NOTIFICATION.—Not later than 60 days before the date of the beginning of the period of obligated service of a participant, the Secretary shall notify the participant of that date.

(g) BREACH OF AGREEMENT; LIABILITY.—

(1) LIQUIDATED DAMAGES FOR FAILURE TO ACCEPT PAYMENT.—

(A) IN GENERAL.—A participant in the program under this section (other than a participant described in paragraph (2)) who fails to accept payment, or instructs the covered facility at which the participant is a medical resident not to accept payment, in whole or in part, of educational assistance under the agreement en-
entered into under subsection (d) shall be liable to
the United States for liquidated damages in the
amount of $1,500.

(B) Treatment of Other Obligations.—Liability for liquidated damages under
subparagraph (A) is in addition to any period
of obligated service or other obligation or liability under the agreement entered into under sub-
section (d).

(2) Liability for Certain Breaches.—

(A) In General.—A participant in the
program under this section shall be liable to the
United States for the amount that has been
paid to or on behalf of the participant under
the agreement if any of the following occurs:

(i) The participant is dismissed from
serving as a medical resident at a covered
facility for disciplinary reasons.

(ii) The participant voluntarily termi-
nates service as a medical resident at a
covered facility before completion of such
service.

(iii) The participant loses his or her
license, registration, or certification to
practice his or her health care profession in a State.

(B) Treatment of period of obligated service.—Liability under subparagraph (A) is in lieu of any period of obligated service under the agreement entered into under subsection (d).

(3) Liability for failing to complete period of service.—

(A) In general.—If a participant in the program under this section breaches the agreement under subsection (d) by failing (for any reason) to complete the period of obligated service of the participant, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula: \( A = 3\Phi(t-s/t) \).

(B) Formula variables.—In the formula specified in subparagraph (A):

(i) “A” is the amount the United States is entitled to recover from the participant.

(ii) “\( \Phi \)” is the sum of—
(I) the amounts paid under this section to or on behalf of the participant; and

(II) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(iii) “t” is the total number of months in the period of obligated service of the participant.

(iv) “s” is the number of months of such period served by the participant.

(4) PAYMENT DEADLINE.—Any amount of damages that the United States is entitled to recover under this subsection shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement under subsection (d).

(h) COVERED FACILITIES DEFINED.—In this section, the term “covered facilities” means any of the following:

(1) A facility of the Department of Veterans Affairs.
(2) A facility operated by an Indian tribe or a tribal organization, as those terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(3) A facility operated by the Indian Health Service.

(4) A Federally-qualified health center, as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)).

(5) A community health center.

(6) A facility operated by the Department of Defense.

(7) Any other health care facility designated by the Secretary of Veterans Affairs.

SEC. 4. PRACTICE OF HEALTH CARE PROFESSIONALS OF THE DEPARTMENT OF VETERANS AFFAIRS PROVIDING TREATMENT, INCLUDING TREATMENT VIA TELEMEDICINE.

(a) IN GENERAL.—Chapter 17 of title 38, United States Code, is amended by inserting after section 1730A the following new section:
§ 1730B Practice of health care professionals providing treatment, including via telemedicine

(a) In General.—Notwithstanding any other provision of law, a covered health care professional may provide, at the discretion of the Secretary, health care to veterans and other beneficiaries receiving care under this title, including by telemedicine, at any location in any State regardless of where in a State the covered health care professional or the patient is located.

(b) Location.—Subsection (a) shall apply to a covered health care professional providing treatment to a patient regardless of whether the covered health care professional or patient is located in a facility owned by the Federal Government during such treatment.

(c) Construction.—Nothing in this section may be construed to remove, limit, or otherwise affect any obligation of a covered health care professional under the Controlled Substances Act (21 U.S.C. 801 et seq.).

(d) Supremacy.—(1) The provisions in this section shall prevail over any general or specific provisions of law, rule, or regulation of a State that are inconsistent with this section.

(2) No State shall deny or revoke the license, registration, or certification of a covered health care professional who otherwise meets that State’s qualifications for
holding the license, registration, or certification on the basis that the covered health care professional has engaged or intends to engage in activity covered by subsection (a).

“(e) DEFINITIONS.—In this section,

“(1) the term ‘covered health care professional’ means a health care professional who—

“(A) is an employee of the Department appointed under this title, title 5, or any other provision of law;

“(B) is authorized by the Secretary to provide health care under this chapter;

“(C) is required to adhere to all quality standards relating to the provision of medicine in accordance with applicable policies of the Department; and

“(D) maintains the qualifications required by section 7402(b) of this title and for that health care profession.

“(2) the term ‘State’ means a State, as defined in section 101(20) of this title, or a political subdivision of a State.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended
by inserting after the item relating to section 1730BA the following new item:

“1730B. Practice of health care professionals providing treatment, including via telemedicine.”.

(c) REPORT ON TELEMEDICINE.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on the effectiveness of the use of telemedicine by the Department of Veterans Affairs.

(2) ELEMENTS.—The report required by paragraph (1) shall include an assessment of the following:

(A) The satisfaction of veterans with telemedicine furnished by the Department.

(B) The satisfaction of health care providers in providing telemedicine furnished by the Department.

(C) The effect of telemedicine furnished by the Department on the following:

(i) The ability of veterans to access health care, whether from the Department
or from non-Department health care providers.

(ii) The frequency of use by veterans of telemedicine.

(iii) Wait times for an appointment for the receipt of health care from the Department.

(iv) The use by veterans of in-person services at Department facilities and non-Department facilities, and if there has been any reduction in such use.

(D) The types of appointments for the receipt of telemedicine furnished by the Department that were provided during the one-year period preceding the submittal of the report.

(E) The number of appointments for the receipt of telemedicine furnished by the Department during such period, disaggregated by Veterans Integrated Service Network.

(F) Savings by the Department, if any, including travel costs, of furnishing health care through the use of telemedicine during such period.