

[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.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

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,*

1 **SECTION 1. MODIFICATION OF AUTHORITY TO ENTER INTO**
2 **AGREEMENTS WITH STATE HOMES TO PRO-**
3 **VIDE NURSING HOME CARE.**

4 (a) USE OF AGREEMENTS.—

5 (1) IN GENERAL.—Paragraph (1) of section
6 1745(a) of title 38, United States Code, is amended,
7 in the matter preceding subparagraph (A), by strik-
8 ing “a contract (or agreement under section
9 1720(e)(1) of this title)” and inserting “an agree-
10 ment”.

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

14 (b) TREATMENT OF CERTAIN LAWS.—Such section
15 is amended by adding at the end the following new para-
16 graph:

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

21 “(B)(i) Except as provided in clause (ii) and unless
22 otherwise provided in this section or in regulations pre-
23 scribed pursuant to this section, a State home that enters
24 into an agreement under this section is not subject to, in
25 the carrying out of the agreement, any law to which pro-
26 viders of services and suppliers are not subject under the

1 original Medicare fee-for-service program under parts A
2 and B of title XVIII of the Social Security Act (42 U.S.C.
3 1395 et seq.) or the Medicaid program under title XIX
4 of such Act (42 U.S.C. 1396 et seq.).

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

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

14 (c) APPLICATION.—

15 (1) IN GENERAL.—The amendments made by
16 this section shall apply to agreements entered into
17 under section 1745 of such title on and after the
18 date on which the regulations prescribed by the Sec-
19 retary of Veterans Affairs to implement such amend-
20 ments take effect.

21 (2) PUBLICATION.—The Secretary shall publish
22 the date described in paragraph (1) in the Federal
23 Register not later than 30 days before such date.

1 **SEC. 2. MODIFICATION OF PROCESS THROUGH WHICH DE-**
2 **PARTMENT OF VETERANS AFFAIRS RECORDS**
3 **OBLIGATIONS FOR NON-DEPARTMENT CARE.**

4 (a) IN GENERAL.—Subchapter III of chapter 17 of
5 title 38, United States Code, is amended by adding at the
6 end the following new section:

7 **“§ 1730B. Recording obligations for care at non-De-**
8 **partment facilities**

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

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

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

20 **SEC. 3. PROGRAM TO FILL GRADUATE MEDICAL EDU-**
21 **CATION RESIDENCY POSITIONS OF DEPART-**
22 **MENT OF VETERANS AFFAIRS.**

23 (a) PROGRAM.—

24 (1) IN GENERAL.—The Secretary of Veterans
25 Affairs shall carry out a program to provide edu-

1 educational assistance under paragraph (2) to encour-
2 age individuals to fill graduate medical education
3 residency positions that—

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

9 (B) are unfilled as of the date of the enact-
10 ment of this Act.

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

16 (b) APPLICATION.—To participate in the program
17 under this section, an individual shall submit to the Sec-
18 retary an application for such participation together with
19 an agreement described in subsection (d) under which the
20 individual agrees to serve a period of obligated service in
21 the Veterans Health Administration as provided in the
22 agreement in return for payment of educational assistance
23 as provided in the agreement.

24 (c) APPROVAL BY SECRETARY.—

1 (1) IN GENERAL.—An individual becomes a
2 participant in the program under this section upon
3 the approval by the Secretary of the application of
4 the individual and the acceptance by the Secretary
5 of an agreement described in subsection (d) with re-
6 spect to the individual.

7 (2) NOTIFICATION.—Upon the approval by the
8 Secretary under paragraph (1) of the participation
9 of an individual in the program and the acceptance
10 of an agreement described in subsection (d), the Sec-
11 retary shall promptly notify the individual in writing
12 of that approval and acceptance.

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

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

24 (f) OBLIGATED SERVICE.—

1 (1) IN GENERAL.—Each participant in the pro-
2 gram under this section shall serve as a full-time
3 employee of the Department of Veterans Affairs for
4 a period of obligated service provided in the agree-
5 ment entered into by the participant under sub-
6 section (d).

7 (2) PRACTICE AREA.—Service by a participant
8 under paragraph (1) shall be in the full-time clinical
9 practice of the profession of the participant or in an-
10 other health care position in an assignment or loca-
11 tion determined by the Secretary.

12 (3) NOTIFICATION.—Not later than 60 days be-
13 fore the date of the beginning of the period of obli-
14 gated service of a participant, the Secretary shall
15 notify the participant of that date.

16 (g) BREACH OF AGREEMENT; LIABILITY.—

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

19 (A) IN GENERAL.—A participant in the
20 program under this section (other than a par-
21 ticipant described in paragraph (2)) who fails to
22 accept payment, or instructs the covered facility
23 at which the participant is a medical resident
24 not to accept payment, in whole or in part, of
25 educational assistance under the agreement en-

1 tered into under subsection (d) shall be liable to
2 the United States for liquidated damages in the
3 amount of \$1,500.

4 (B) TREATMENT OF OTHER OBLIGA-
5 TIONS.—Liability for liquidated damages under
6 subparagraph (A) is in addition to any period
7 of obligated service or other obligation or liabil-
8 ity under the agreement entered into under sub-
9 section (d).

10 (2) LIABILITY FOR CERTAIN BREACHES.—

11 (A) IN GENERAL.—A participant in the
12 program under this section shall be liable to the
13 United States for the amount that has been
14 paid to or on behalf of the participant under
15 the agreement if any of the following occurs:

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

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

23 (iii) The participant loses his or her
24 license, registration, or certification to

1 practice his or her health care profession
2 in a State.

3 (B) TREATMENT OF PERIOD OF OBLI-
4 GATED SERVICE.—Liability under subparagraph
5 (A) is in lieu of any period of obligated service
6 under the agreement entered into under sub-
7 section (d).

8 (3) LIABILITY FOR FAILING TO COMPLETE PE-
9 RIOD OF SERVICE.—

10 (A) IN GENERAL.—If a participant in the
11 program under this section breaches the agree-
12 ment under subsection (d) by failing (for any
13 reason) to complete the period of obligated serv-
14 ice of the participant, the United States shall
15 be entitled to recover from the participant an
16 amount determined in accordance with the fol-
17 lowing formula: $A = 3\Phi(t-s/t)$.

18 (B) FORMULA VARIABLES.—In the for-
19 mula specified in subparagraph (A):

20 (i) “A” is the amount the United
21 States is entitled to recover from the par-
22 ticipant.

23 (ii) “ Φ ” is the sum of—

1 (I) the amounts paid under this
2 section to or on behalf of the partici-
3 pant; and

4 (II) the interest on such amounts
5 which would be payable if at the time
6 the amounts were paid they were
7 loans bearing interest at the max-
8 imum legal prevailing rate, as deter-
9 mined by the Treasurer of the United
10 States.

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

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

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

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

24 (1) A facility of the Department of Veterans
25 Affairs.

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

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

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

10 (5) A community health center.

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

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

15 **SEC. 4. PRACTICE OF HEALTH CARE PROFESSIONALS OF**
16 **THE DEPARTMENT OF VETERANS AFFAIRS**
17 **PROVIDING TREATMENT, INCLUDING TREAT-**
18 **MENT VIA TELEMEDICINE.**

19 (a) IN GENERAL.—Chapter 17 of title 38, United
20 States Code, is amended by inserting after section 1730A
21 the following new section:

1 **“§ 1730B Practice of health care professionals pro-**
2 **viding treatment, including via telemedi-**
3 **cine**

4 “(a) IN GENERAL.—Notwithstanding any other pro-
5 vision of law, a covered health care professional may pro-
6 vide, at the discretion of the Secretary, health care to vet-
7 erans and other beneficiaries receiving care under this
8 title, including by telemedicine, at any location in any
9 State regardless of where in a State the covered health
10 care professional or the patient is located.

11 “(b) LOCATION.—Subsection (a) shall apply to a cov-
12 ered health care professional providing treatment to a pa-
13 tient regardless of whether the covered health care profes-
14 sional or patient is located in a facility owned by the Fed-
15 eral Government during such treatment.

16 “(c) CONSTRUCTION.—Nothing in this section may
17 be construed to remove, limit, or otherwise affect any obli-
18 gation of a covered health care professional under the Con-
19 trolled Substances Act (21 U.S.C. 801 et seq.).

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

24 “(2) No State shall deny or revoke the license, reg-
25 istration, or certification of a covered health care profes-
26 sional who otherwise meets that State’s qualifications for

1 holding the license, registration, or certification on the
2 basis that the covered health care professional has en-
3 gaged or intends to engage in activity covered by sub-
4 section (a).

5 “(e) DEFINITIONS.—In this section,

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

8 “(A) is an employee of the Department ap-
9 pointed under this title, title 5, or any other
10 provision of law;

11 “(B) is authorized by the Secretary to pro-
12 vide health care under this chapter;

13 “(C) is required to adhere to all quality
14 standards relating to the provision of medicine
15 in accordance with applicable policies of the De-
16 partment; and

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

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

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 17 of such title is amended

1 by inserting after the item relating to section 1730BA the
2 following new item:

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

3 (c) REPORT ON TELEMEDICINE.—

4 (1) IN GENERAL.—Not later than one year
5 after the date of the enactment of this Act, the Sec-
6 retary of Veterans Affairs shall submit to the Com-
7 mittee on Veterans’ Affairs of the Senate and the
8 Committee on Veterans’ Affairs of the House of
9 Representatives a report on the effectiveness of the
10 use of telemedicine by the Department of Veterans
11 Affairs.

12 (2) ELEMENTS.—The report required by para-
13 graph (1) shall include an assessment of the fol-
14 lowing:

15 (A) The satisfaction of veterans with tele-
16 medicine furnished by the Department.

17 (B) The satisfaction of health care pro-
18 viders in providing telemedicine furnished by
19 the Department.

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

22 (i) The ability of veterans to access
23 health care, whether from the Department

1 or from non-Department health care pro-
2 viders.

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

5 (iii) Wait times for an appointment
6 for the receipt of health care from the De-
7 partment.

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

12 (D) The types of appointments for the re-
13 ceipt of telemedicine furnished by the Depart-
14 ment that were provided during the one-year
15 period preceding the submittal of the report.

16 (E) The number of appointments for the
17 receipt of telemedicine furnished by the Depart-
18 ment during such period, disaggregated by Vet-
19 erans Integrated Service Network.

20 (F) Savings by the Department, if any, in-
21 cluding travel costs, of furnishing health care
22 through the use of telemedicine during such pe-
23 riod.