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116TH CONGRESS
1ST SESSION

H. R. 3530

[Report No. 116-]

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to enforce the licensure requirement for medical providers of the Department of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2019

Mr. CLOUD (for himself, Mr. BERGMAN, and Mr. PETERSON) introduced the following bill; which was referred to the Committee on Veterans' Affairs

DECEMBER --, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on June 27, 2019]

A BILL

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to enforce the licensure requirement for medical providers of the Department of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Improving Confidence*
5 *in Veterans’ Care Act”.*

6 **SEC. 2. COMPLIANCE WITH REQUIREMENTS FOR EXAM-**
7 **INING QUALIFICATIONS AND CLINICAL ABILI-**
8 **TIES OF DEPARTMENT OF VETERANS AFFAIRS**
9 **HEALTH CARE PROFESSIONALS.**

10 *(a) IN GENERAL.—Subchapter I of chapter 74 of title*
11 *38, United States Code, is amended by adding at the end*
12 *the following new section:*

13 **“§ 7414. Compliance with requirements for examining**
14 **qualifications and clinical abilities of**
15 **health care professionals**

16 *“(a) COMPLIANCE WITH CREDENTIALING REQUIRE-*
17 *MENTS.—The Secretary shall ensure that each medical cen-*
18 *ter of the Department, in a consistent manner—*

19 *“(1) compiles, verifies, and reviews documenta-*
20 *tion for each health care professional of the Depart-*
21 *ment at such medical center regarding, at a min-*
22 *imum—*

23 *“(A) the professional licensure, certification,*
24 *or registration of the health care professional;*

1 “(B) *whether the health care professional*
2 *holds a Drug Enforcement Administration reg-*
3 *istration; and*

4 “(C) *the education, training, experience,*
5 *malpractice history, and clinical competence of*
6 *the health care professional; and*

7 “(2) *continuously monitors any changes to the*
8 *matters under paragraph (1), including with respect*
9 *to suspensions, restrictions, limitations, probations,*
10 *denials, revocations, and other changes, relating to the*
11 *failure of a health care professional to meet generally*
12 *accepted standards of clinical practice in a manner*
13 *that presents reasonable concern for the safety of pa-*
14 *tients.*

15 “(b) *REGISTRATION REGARDING CONTROLLED SUB-*
16 *STANCES.—(1) Except as provided by paragraph (2), the*
17 *Secretary shall ensure that each covered health care profes-*
18 *sional holds an active Drug Enforcement Administration*
19 *registration.*

20 “(2) *The Secretary shall—*

21 “(A) *determine the circumstances in which a*
22 *medical center of the Department must obtain a*
23 *waiver under section 303 of the Controlled Substances*
24 *Act (21 U.S.C. 823) with respect to covered health*
25 *care professionals; and*

1 “(B) *establish a process for medical centers to re-*
2 *quest such waivers.*

3 “(3) *In carrying out paragraph (1), the Secretary*
4 *shall ensure that each medical center of the Department*
5 *monitors the Drug Enforcement Administration registra-*
6 *tions of covered health care professionals at such medical*
7 *center in a manner that ensures the medical center is made*
8 *aware of any change in status in the registration by not*
9 *later than seven days after such change in status.*

10 “(4) *If a covered health care professional does not hold*
11 *an active Drug Enforcement Administration registration,*
12 *the Secretary shall carry out any of the following actions,*
13 *as the Secretary determines appropriate:*

14 “(A) *Obtain a waiver pursuant to paragraph*
15 *(2).*

16 “(B) *Transfer the health care professional to a*
17 *position that does not require prescribing, dispensing,*
18 *administering, or conducting research with controlled*
19 *substances.*

20 “(C) *Take adverse actions under subchapter V of*
21 *this chapter, with respect to an employee of the De-*
22 *partment, or terminate the services of a contractor,*
23 *with respect to a contractor of the Department.*

24 “(c) *REVIEWS OF CONCERNS RELATING TO QUALITY*
25 *OF CLINICAL CARE.—(1) The Secretary shall ensure that*

1 *each medical center of the Department, in a consistent man-*
2 *ner, carries out—*

3 “(A) *ongoing, retrospective, and comprehensive moni-*
4 *toring of the performance and quality of the health care*
5 *delivered by each health care professional of the Department*
6 *located at the medical center, including with respect to the*
7 *safety of such care; and*

8 “(B) *timely and documented reviews of such care if*
9 *an individual notifies the Secretary of any potential con-*
10 *cerns relating to a failure of the health care professional*
11 *to meet generally accepted standards of clinical practice in*
12 *a manner that presents reasonable concern for the safety*
13 *of patients.*

14 “(2) *The Secretary shall establish a policy to carry out*
15 *paragraph (1), including with respect to—*

16 “(A) *determining the period by which a medical*
17 *center of the Department must initiate the review of*
18 *a concern described in subparagraph (B) of such*
19 *paragraph following the date on which the concern is*
20 *received; and*

21 “(B) *ensuring the compliance of each medical*
22 *center with such policy.*

23 “(d) *COMPLIANCE WITH REQUIREMENTS FOR RE-*
24 *PORTING QUALITY OF CARE CONCERNS.—When the Sec-*
25 *retary substantiates a concern relating to the clinical com-*

1 *petency of, or quality of care delivered by, a health care*
2 *professional of the Department (including a former such*
3 *health care professional), the Secretary shall ensure that the*
4 *appropriate medical center of the Department timely noti-*
5 *fies the following entities of such concern, as appropriate:*

6 “(1) *The appropriate licensing, registration, or*
7 *certification body in each State in which the health*
8 *care professional is licensed, registered, or certified.*

9 “(2) *The Drug Enforcement Administration.*

10 “(3) *The National Practitioner Data Bank estab-*
11 *lished pursuant to the Health Care Quality Improve-*
12 *ment Act of 1986 (42 U.S.C. 11101 et seq.).*

13 “(4) *Any other relevant entity.*

14 “(e) *PROHIBITION ON CERTAIN SETTLEMENT AGREE-*
15 *MENT TERMS.—(1) Except as provided by paragraph (2),*
16 *the Secretary may not enter into a settlement agreement*
17 *relating to an adverse action against a health care profes-*
18 *sional of the Department if such agreement includes terms*
19 *that require the Secretary to conceal from the personnel file*
20 *of the employee a serious medical error or lapse in clinical*
21 *practice that constitutes a substantial failure to meet gen-*
22 *erally accepted standards of clinical practice as to raise*
23 *reasonable concern for the safety of patients.*

1 “(2) Paragraph (1) does not apply to adverse actions
2 that the Special Counsel under section 1211 of title 5 deter-
3 mines constitutes a prohibited personnel practice.

4 “(f) TRAINING.—Not less frequently than biannually,
5 the Secretary shall provide mandatory training to employ-
6 ees of each medical center of the Department who are re-
7 sponsible for any of the following activities:

8 “(1) Compiling, validating, or reviewing the cre-
9 dentials of health care professionals of the Depart-
10 ment.

11 “(2) Reviewing the quality of clinical care deliv-
12 ered by health care professionals of the Department.

13 “(3) Taking adverse privileging actions or mak-
14 ing determinations relating to other disciplinary ac-
15 tions or employment actions against health care pro-
16 fessionals of the Department for reasons relating to
17 the failure of a health care professional to meet gen-
18 erally accepted standards of clinical practice in a
19 manner that presents reasonable concern for the safety
20 of patients.

21 “(4) Making notifications under subsection (d).

22 “(g) DEFINITIONS.—In this section:

23 “(1) The term ‘controlled substance’ has the
24 meaning given that term in section 102 of the Con-
25 trolled Substances Act (21 U.S.C. 802).

1 “(2) *The term ‘covered health care professional’*
2 *means a person employed in a position as a health*
3 *care professional of the Department, or a contractor*
4 *of the Department, that requires the person to be au-*
5 *thorized to prescribe, dispense, administer, or conduct*
6 *research with, controlled substances.*

7 “(3) *The term ‘Drug Enforcement Administra-*
8 *tion registration’ means registration with the Drug*
9 *Enforcement Administration under section 303 of the*
10 *Controlled Substances Act (21 U.S.C. 823) by health*
11 *care practitioners authorized to dispense, prescribe,*
12 *administer, or conduct research with, controlled sub-*
13 *stances.*

14 “(4) *The term ‘health care professional of the De-*
15 *partment’ means the professionals described in section*
16 *1730C(b) of this title, and includes a contractor of the*
17 *Department serving as such a professional.”.*

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

*“7414. Compliance with requirements for examining qualifications and clinical
abilities of health care professionals.”.*

21 **(c) DEADLINE FOR IMPLEMENTATION.**—*The Secretary*
22 *of Veterans Affairs shall commence the implementation of*
23 *section 7414 of title 38, United States Code, as added by*
24 *subsection (a), by the following dates:*

1 (1) *With respect to subsections (a), (c)(2), (d),*
2 *and (f), not later than 180 days after the date of the*
3 *enactment of this Act.*

4 (2) *With respect to subsection (c)(1), not later*
5 *than one year after the date of the enactment of this*
6 *Act.*

7 (3) *With respect to subsection (b)(2), not later*
8 *than 18 months after the date of the enactment of this*
9 *Act.*

10 (d) *AUDITS AND REPORTS.—*

11 (1) *AUDITS.—The Secretary of Veterans Affairs*
12 *shall carry out annual audits of the compliance of*
13 *medical centers of the Department of Veterans Affairs*
14 *with the matters required by section 7414 of title 38,*
15 *United States Code, as added by subsection (a). In*
16 *carrying out such audits, the Secretary—*

17 (A) *may not authorize the medical center*
18 *being audited to conduct the audit; and*

19 (B) *may enter into an agreement with an-*
20 *other department or agency of the Federal Gov-*
21 *ernment or a nongovernmental entity to conduct*
22 *such audits.*

23 (2) *REPORTS.—Not later than one year after the*
24 *date of the enactment of this Act, and annually there-*
25 *after for five years, the Secretary of Veterans Affairs*

1 *shall submit to the Committees on Veterans' Affairs of*
2 *the House of Representatives and the Senate a report*
3 *on the audits conducted under paragraph (1). Each*
4 *such report shall include a summary of the compli-*
5 *ance by each medical center with the matters required*
6 *by such section 7414.*

7 (3) *INITIAL REPORT.—The Secretary shall in-*
8 *clude in the first report submitted under paragraph*
9 *(2) the following:*

10 (A) *A description of the progress made by*
11 *the Secretary in implementing such section 7414,*
12 *including any matters under such section that*
13 *the Secretary has not fully implemented.*

14 (B) *An analysis of the feasibility, advis-*
15 *ability, and cost of requiring credentialing em-*
16 *ployees of the Department to be trained by an*
17 *outside entity and to maintain a credentialing*
18 *certification.*