

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3530
OFFERED BY MR. Takano, CA

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improving Confidence
3 in Veterans’ Care Act”.

4 **SEC. 2. COMPLIANCE WITH REQUIREMENTS FOR EXAM-**
5 **INING QUALIFICATIONS AND CLINICAL ABILI-**
6 **TIES OF DEPARTMENT OF VETERANS AF-**
7 **FAIRS HEALTH CARE PROFESSIONALS.**

8 (a) IN GENERAL.—Subchapter I of chapter 74 of title
9 38, United States Code, is amended by adding at the end
10 the following new section:

11 **“§ 7414. Compliance with requirements for examining**
12 **qualifications and clinical abilities of**
13 **health care professionals**

14 “(a) COMPLIANCE WITH CREDENTIALING REQUIRE-
15 MENTS.—The Secretary shall ensure that each medical
16 center of the Department, in a consistent manner—

17 “(1) compiles, verifies, and reviews documenta-
18 tion for each health care professional of the Depart-

1 ment at such medical center regarding, at a min-
2 imum—

3 “(A) the professional licensure, certifi-
4 cation, or registration of the health care profes-
5 sional;

6 “(B) whether the health care professional
7 holds a Drug Enforcement Administration reg-
8 istration; and

9 “(C) the education, training, experience,
10 malpractice history, and clinical competence of
11 the health care professional; and

12 “(2) continuously monitors any changes to the
13 matters under paragraph (1), including with respect
14 to suspensions, restrictions, limitations, probations,
15 denials, revocations, and other changes, relating to
16 the failure of a health care professional to meet gen-
17 erally accepted standards of clinical practice in a
18 manner that presents reasonable concern for the
19 safety of patients.

20 “(b) REGISTRATION REGARDING CONTROLLED SUB-
21 STANCES.—(1) Except as provided by paragraph (2), the
22 Secretary shall ensure that each covered health care pro-
23 fessional holds an active Drug Enforcement Administra-
24 tion registration.

25 “(2) The Secretary shall—

1 “(A) determine the circumstances in which a
2 medical center of the Department must obtain a
3 waiver under section 303 of the Controlled Sub-
4 stances Act (21 U.S.C. 823) with respect to covered
5 health care professionals; and

6 “(B) establish a process for medical centers to
7 request such waivers.

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

15 “(4) If a covered health care professional does not
16 hold an active Drug Enforcement Administration registra-
17 tion, the Secretary shall carry out either of the following
18 actions, as the Secretary determines appropriate:

19 “(A) Obtain a waiver pursuant to paragraph
20 (2).

21 “(B) Transfer the health care professional to a
22 position that does not require prescribing, dis-
23 pensing, administering, or conducting research with
24 controlled substances.

1 “(c) REVIEWS OF CONCERNS RELATING TO QUALITY
2 OF CLINICAL CARE.—(1) The Secretary shall ensure that
3 each medical center of the Department, in a consistent
4 manner, carries out—

5 “(A) ongoing, retrospective, and com-
6 prehensive monitoring of the performance and
7 quality of the health care delivered by each
8 health care professional of the Department lo-
9 cated at the medical center, including with re-
10 spect to the safety of such care; and

11 “(B) timely and documented reviews of
12 such care if an individual notifies the Secretary
13 of any potential concerns relating to a failure of
14 the health care professional to meet generally
15 accepted standards of clinical practice in a
16 manner that presents reasonable concern for
17 the safety of patients.

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

20 “(A) determining the period by which a medical
21 center of the Department must initiate the review of
22 a concern described in subparagraph (B) of such
23 paragraph following the date on which the concern
24 is received; and

1 “(B) ensuring the compliance of each medical
2 center with such policy.

3 “(d) COMPLIANCE WITH REQUIREMENTS FOR RE-
4 PORTING QUALITY OF CARE CONCERNS.—When the Sec-
5 retary substantiates a concern relating to the clinical com-
6 petency of, or quality of care delivered by, a health care
7 professional of the Department (including a former such
8 health care professional), the Secretary shall ensure that
9 the appropriate medical center of the Department timely
10 notifies the following entities of such concern, as appro-
11 priate:

12 “(1) The appropriate licensing, registration, or
13 certification body in each State in which the health
14 care professional is licensed, registered, or certified.

15 “(2) The Drug Enforcement Administration.

16 “(3) The National Practitioner Data Bank es-
17 tablished pursuant to the Health Care Quality Im-
18 provement Act of 1986 (42 U.S.C. 11101 et seq.).

19 “(4) Any other relevant entity.

20 “(e) PROHIBITION ON CERTAIN SETTLEMENT
21 AGREEMENT TERMS.—(1) Except as provided by para-
22 graph (2), the Secretary may not enter into a settlement
23 agreement relating to an adverse action against a health
24 care professional specified in section 7401(1) of this title
25 if such agreement includes terms that require the Sec-

1 retary to conceal from the personnel file of the employee
2 a serious medical error or lapse in clinical practice that
3 constitutes a substantial failure to meet generally accepted
4 standards of clinical practice as to raise reasonable con-
5 cern for the safety of patients.

6 “(2) Paragraph (1) does not apply to adverse actions
7 that the Special Counsel under section 1211 of title 5 de-
8 termines constitutes a prohibited personnel practice.

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

13 “(1) Compiling, validating, or reviewing the cre-
14 dentials of health care professionals of the Depart-
15 ment.

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

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

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

2 “(g) DEFINITIONS.—In this section:

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

6 “(2) The term ‘covered health care professional’
7 means a person employed in a position as a health
8 care professional of the Department, or a contractor
9 of the Department, that requires the person to be
10 authorized to prescribe, dispense, administer, or con-
11 duct research with, controlled substances.

12 “(3) The term ‘Drug Enforcement Administra-
13 tion registration’ means registration with the Drug
14 Enforcement Administration under section 303 of
15 the Controlled Substances Act (21 U.S.C. 823) by
16 health care practitioners authorized to dispense, pre-
17 scribe, administer, or conduct research with, con-
18 trolled substances.

19 “(4) The term ‘health care professional of the
20 Department’ means the professionals described in
21 section 1730C(b) of this title, and includes a con-
22 tractor of the Department serving as such a profes-
23 sional.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of such chapter is amended by inserting

1 after the item relating to section 7413 the following new
2 item:

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

3 (c) DEADLINE FOR IMPLEMENTATION.—The Sec-
4 retary of Veterans Affairs shall commence the implemen-
5 tation of section 7414 of title 38, United States Code, as
6 added by subsection (a), by the following dates:

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

10 (2) With respect to subsection (c)(1), not later
11 than one year after the date of the enactment of this
12 Act.

13 (3) With respect to subsection (b)(2), not later
14 than 18 months after the date of the enactment of
15 this Act.

16 (e) AUDITS AND REPORTS.—

17 (1) AUDITS.—The Secretary of Veterans Af-
18 fairs shall carry out annual audits of the compliance
19 of medical centers of the Department of Veterans
20 Affairs with the matters required by section 7414 of
21 title 38, United States Code, as added by subsection
22 (a). In carrying out such audits, the Secretary—

23 (A) may not authorize the medical center
24 being audited to conduct the audit; and

1 (B) may enter into an agreement with an-
2 other department or agency of the Federal Gov-
3 ernment or a nongovernmental entity to con-
4 duct such audits.

5 (2) REPORTS.—Not later than one year after
6 the date of the enactment of this Act, and annually
7 thereafter for five years, the Secretary of Veterans
8 Affairs shall submit to the Committees on Veterans'
9 Affairs of the House of Representatives and the Sen-
10 ate a report on the audits conducted under para-
11 graph (1). Each such report shall include a sum-
12 mary of the compliance by each medical center with
13 the matters required by such section 7414.

14 (3) INITIAL REPORT.—The Secretary shall in-
15 clude in the first report submitted under paragraph
16 (2) the following:

17 (A) A description of the progress made by
18 the Secretary in implementing such section
19 7414, including any matters under such section
20 that the Secretary has not fully implemented.

21 (B) An analysis of the feasibility, advis-
22 ability, and cost of requiring credentialing em-
23 ployees of the Department to be trained by an
24 outside entity and to maintain a credentialing
25 certification.

Amend the title so as to read: “A bill to amend title 38, United States Code, to ensure that health care professionals of the Department of Veterans Affairs are qualified and are registered with the Drug Enforcement Administration, and for other purposes”.

