



Legislative Bulletin.....July 30, 2014

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The Conference Report to Accompany H.R. 3230

The Conference Report to Accompany H.R. 3230 — (Miller-R, FL)

Order of Business: The [Conference Report to Accompany H.R. 3230](#) is scheduled for consideration on Wednesday, July 30, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary:

Title I: Improvement of Access to Care from Non-Department of Veterans Affairs Providers

- Requires the Department of Veterans Affairs (VA) to provide hospital care and medical services to eligible veterans, at the election of such veteran, through non-VA health care providers who participate in the Medicare program, or at Federally-qualified health centers, facilities funded by the Department of Defense, or facilities funded by the Indian Health Service. Coordination of care will be conducted through the Non-VA Care Coordination Program of the Department of Veterans Affairs.
 - Eligible Veterans are defined as:
 - A veteran enrolled in the patient enrollment system at the VA as of August 2, 2014; or
 - Any veteran who enrolls after such date and who, at any time during the five-year period preceding such enrollment, served on active duty in a theater of combat operations.
 - In addition, veterans are eligible only if one of the following criteria apply:
 - They are unable to schedule an appointment within the wait-time goals (30 days) of the Veterans Health Administration;
 - Reside more than 40 miles from a VA medical facility;
 - Reside in state without a VA medical facility that provides certain services; or
 - Reside in a location that is 40 miles or less from a VA medical facility, but travel by air, boat, or ferry is required to reach the facility or traveling to a facility causes an unusual or excessive burden due to geographical challenges.

- After entering into agreements with non-VA providers, the Secretary will negotiate rates for the furnishing of care and reimburse the entity for the care. These rates will be no more than the rates paid to the provider or supplier under the Medicare program for the same care or services.
- Before receiving hospital care or medical services, eligible veterans will provide the Secretary information on any other health care plan through which they are covered. For those veterans receiving hospital care or medical services for non-service-connected conditions, the Department is secondarily responsible for payment.
- The bill establishes a claims processing system to pay claims to non-VA providers, and includes a sense of Congress that the VA comply with the “prompt payment rule” in paying for health care pursuant to contracts with non-VA providers.
- Within 90 days of enactment, the Secretary is to issue eligible veterans a “Veterans Choice Card” to be presented to health care providers to facilitate the receipt of care. The Secretary will provide information to veterans about the availability of care and services through the use of this card.
- The bill provides for the reauthorization and modification of the pilot program, [Project ARCH](#), for an additional two years. This project intends to improve access for eligible Veterans, specifically in remote rural areas, by connecting them to health care services closer to home.
- The bill transfers the authority to pay for health care furnished through non-VA providers from the Veterans Integrated Service Networks to the Chief Business Office. It would also require the Chief Business Office to work with the Office of Clinical Operations and Management to ensure care and services are provided in a manner that is clinically appropriate and in the best interest of the veterans receiving such care and services.

Title II: Health Care Administrative Matters

- Requires an independent assessment of hospital care and medical services furnished by the VA. The assessment will address issues such as: unique health care needs of the VA patient population, current and projected health care capabilities and resources in the VA, workflow processes, staffing levels at each medical facility and the productivity of each provider compared to industry performance metrics, supply and device purchasing, distribution and use, scheduling, and medical construction, maintenance, and leasing.
 - The entity chosen to do the assessment will submit a report outlining its findings and recommendations.
- Establishes a Commission on Access to Care to examine the access of veterans to health care from the VA and to strategically examine how best to organize the Veterans Health Administration, locate health care resources, and deliver health care to veterans during a 20-year period which begins at enactment.
 - The President shall require the Secretary and other heads of relevant agencies to implement recommendations set forth by the Commission that are considered feasible, advisable, and achievable without further legislative action.
 - The members of the Commission will be appointed by the Speaker of the House, the Minority Leader of the House, the Majority Leader of the Senate, the Minority Leader of the Senate, and the President.

- Tasks the Secretary with improving the access of veterans to telemedicine and other health care through the use of mobile vet centers by providing standardized requirements for such care.
- Requires the Secretary to ensure that scheduling and wait-time metrics are not used as factors in determining the performance of certain employees for purposes of determining whether to pay performance awards to such employees.
- Requires that no later than 90 days after enactment, the Secretary will publish (online and in the Federal Register) the wait-times for the scheduling of an appointment in each VA facility. It will be delineated by the wait for primary care, specialty care, and hospital care and medical services based on the general severity of the condition of the veteran.
- Directs the Secretary to develop a comprehensive online database which contains all applicable patient safety, quality of care, and outcome measures for health care provided by the VA.
- Makes improvements to the “Our Doctors” website and updates the information provided through the website.
- Requires the Secretary to include information in the Department's budget submission regarding hospital care and medical services furnished through expanded use of contracts.
- Requires the Secretary to establish disciplinary policies to address the submission of false data concerning wait times for health care or quality measure.

Title III: Health Care Staffing, Recruitment, and Training Matters

- Directs the Inspector General of the VA to determine the five occupations of health care providers for which there is the largest staffing shortage. The Secretary may then recruit and directly appoint the qualified personnel to serve in that particular occupation.
- Increases the number of graduate medical education residency positions by up to 1,500 over five years with a priority for primary care, mental health, and other specialties as VA deems appropriate.
- Extends the VA’s authority to operate the VA [Health Professionals Education Assistance Program](#) through December 31, 2019. In addition, it would increase the cap on debt reduction payments to an individual participant from \$60,000 to \$120,000.

Title IV: Health Care Related to Sexual Trauma

- Expands counseling and treatment services to veterans who experienced trauma which resulted from physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while on inactive duty training.
- Specifies that, in addition to veterans, members of the armed forces (including members of the National Guard and Reserves) on active duty may also receive these services from the Department of Veterans Affairs.
- No later than 630 days after enactment, the Secretary of Veterans’ Affairs will submit a report on the treatment and services available from the Department of Veterans Affairs for male veterans compared to the treatment and services available for female veterans. A report on the transition of military sexual trauma treatment from the Department of Defense to the Department of Veterans’ Affairs is also required to be submitted no later than 630 days after enactment.

Title V: Other Medical Matters

- Extends a pilot program to assess the effectiveness of providing assisted living services to veterans with traumatic brain injury through October 6, 2017. This program is currently scheduled to expire on September 30, 2014.

Title VI: Major Medical Facility Leases

- Authorizes the Secretary to carry out major medical facility leases in the locations specified below.
 - Albuquerque, New Mexico
 - Brick, New Jersey
 - Charleston, South Carolina
 - Cobb County, Georgia
 - Honolulu, Hawaii
 - Johnson County Kansas
 - Lafayette, Louisiana
 - Lake Charles, Louisiana
 - New Port Riche, Florida
 - Ponce, Puerto Rico
 - San Antonio, Texas
 - San Diego, California
 - Tyler, Texas
 - West Haven, Connecticut
 - Worcester, Massachusetts
 - Cape Girardeau, Missouri
 - Chattanooga, Tennessee
 - Chico, California
 - Chula Vista, California
 - Haines, Illinois
 - Houston, Texas
 - Lincoln, Nebraska
 - Lubbock, Texas
 - Myrtle Beach, South Carolina
 - Phoenix, Arizona
 - Redding, California
 - Tulsa, Oklahoma
- Requires the funding prospectus of a proposed lease to include an analysis of how the lease will comply with OMB's budgetary treatment of lease-purchase agreements as well as the Anti-Deficiency Act.

Title VII: Other Veterans Matters

- Expands the [Marine Gunnery Sergeant John David Fry Scholarship](#) to include surviving spouses of service members who die or have died in the line of duty while serving as a member of the armed forces after September 11, 2001. However, it limits the entitlement of the surviving spouse to the date that is 15 years after the date of the servicemember's death or the date the surviving spouse remarries, whichever is earlier.
- Makes changes to the All-Volunteer Force and the Post 9/11 Educational Assistance Programs. This section requires public institutions of higher learning, as a condition of approval of any GI Bill education benefits, to charge veterans no more than the in-state-tuition rate for that school.
- Extends the requirement for the collection of fees for housing loans guaranteed by the Secretary through September 30, 2024.
- Limits the aggregate amount of awards and bonuses paid by the Secretary for fiscal years 2015-2024, to ensure the amount does not exceed \$360,000,000.
- Extends through September 30, 2024, the VA's authority to obtain information from the Internal Revenue Service (IRS) and the Social Security Administration (SSA) for income verification purposes. This authority was set to expire on September 30, 2016.
- Gives the Secretary the ability to remove an individual employed in a senior executive position if it is determined the performance or misconduct of the individual warrants the

removal. An expedited review by the Merit Systems Protection Board is to be conducted by an Administrative Judge, and if the review is not concluded within 21 days the removal or demotion is final.

Title VIII: Other Matters

- Appropriates \$5 billion to be used, without fiscal year limitation, for the following:
 - Hire primary care and specialty care physicians for employment at the VA;
 - Hire other medical staff (physicians, nurses, social workers, etc.);
 - Fill staffing shortages as outlined in the bill;
 - Pay for the expenses, equipment, and other costs associated with hiring new health care professionals;
 - Maintain and operate hospitals, nursing homes, and other Veterans Health Administration facilities;
 - Enter into contracts to hire temporary employees to improve facilities;
 - Carry out leases for facilities; and
 - Carry out minor construction projects at the VA
- Establishes a Veterans Choice Fund in the Treasury to carry out the expansion of care and services for eligible veterans and any administrative requirements.
 - Appropriates \$10 billion to be deposited in the fund to be available for obligation or expenditure without fiscal year limitation and remain available until expended.
 - Limits the amount of funds to be used for administrative requirements to \$300,000,000; however, that amount can be increased if the Secretary determines it is necessary.
- The bill designates all the new spending in the bill as “emergency spending” which allows it to add to the deficit without being offset. The emergency designation waives [statutory PAYGO](#) and the House CUTGO rule (clause 10 of Rule XXI).

Major Changes Since the Last Time This Legislation was Before the House: This bill contains provisions from H.R. 4810 which passed the House with a vote of [426-0](#); H.R. 4031 which passed the House with a vote of [390-33](#) as well as the Senate Amendment to H.R.3230 which passed the Senate with a vote of [93-3](#).

In addition, the Conference bill includes provisions that were not included in legislation before the Senate or the House. These provisions are listed below:

- Section 104: Extends and modifies the Project ARCH pilot program for an additional two years;
- Section 302: Extends the VA’s authority to operate the VA Health Professionals Education Assistance Program through December 31, 2019;
- Section 501: Extend a pilot program to assess the effectiveness of providing assisted living services to veterans with traumatic brain injury through October 6, 2017;
- Section 703: Extends current eligibility restrictions for recipients of a VA pension who receive Medicaid –covered nursing home care through September 30, 2024;
- Section 704: Extends the VA’s authority to collect certain funding fees as part of the VA’s home loan guaranty program through September 30, 2024;

- Section 706: Extends the VA’s authority to obtain information from the Internal Revenue Service (IRS) and the Social Security Administration (SSA) for income verification purposes through September 30, 2024; and
- Section 802: Establishes a Veterans Choice Fund within the Treasury which is appropriates \$10 billion to carry out the expanded availability of hospital care and medical services for veterans.

The House has also voted on several standalone bills which are similar to provisions included in the Conference bill.

- Medical Leases: [H.R. 3521](#), The Department of Veterans Affairs Major Medical Facility Lease Authorization Act of 2013, passed the House with a vote of [346-1](#). Read the RSC Legislative Bulletin [here](#).
- In-State Tuition: H.R. [357](#), GI Bill Tuition Fairness Act, passed the House with a vote of [390-0](#). Read the RSC Legislative Bulletin [here](#).
- Extension of Loan Guaranty Fee: Included within [H.R. 2072](#), Demanding Accountability for Veterans Act, as amended, which passed the House by voice vote. Read the RSC Legislative Bulletin [here](#).
- Sexual Trauma: [H.R. 2527](#), To amend title 38, United States Code, to provide veterans with counseling and treatment for sexual trauma that occurred during inactive duty training, passed the House by voice vote. Read the RSC Legislative Bulletin [here](#).

Additional Background: This bill was crafted with the intent to solve numerous problems within the VA. Reports released by the [VA Office of the Inspector General](#) (OIG) and an internal [VA audit](#), uncovered the fact that veterans across the country are waiting months to access medical treatment. Findings in the OIG report concluded that inappropriate scheduling practices are systemic throughout the VA, while the internal audit concluded the “highest scored barrier or challenge was the lack of provider slots.”

The Veterans Health Administration within the VA provides care to approximately [5.75 million](#) veteran patients. It has been [reported](#) that 57,436 veterans have waited 90 days to see a doctor, and still didn’t have an appointment as of May 15th. In sum, [100,000](#) veterans were identified as experiencing long wait times.

Outside Groups Support:

- [Concerned Veterans for America](#)
- [Paralyzed Veterans of America](#)
- [Veterans of Foreign Wars](#)
- [Association of the United States Navy](#)

Possible Conservative Concerns: Some conservatives are concerned about increases in [mandatory spending](#) and the creation of a [larger entitlement](#). In addition, this bill designates all the new spending in the bill as “emergency spending” which allows it to add to the deficit without being offset. The emergency designation waives statutory PAYGO and the House CUTGO rule (clause 10 of Rule XXI).

As stated in the RSC Budget, “On the current path, the next generation of Americans will see mandatory spending consume all government revenues, leaving nothing for defense, infrastructure, and other national priorities. Because this autopilot spending is driving our deficits and debt, it is imperative we begin to tackle these programs.”

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: [CBO](#) estimates that enacting H.R. 3230 would, on net, increase the deficit by \$10.055 billion over the 2014-2024 period. The act would be designated as an emergency requirement for the purposes of enforcing the Statutory Pay-As-You-Go Act of 2010.

This number accounts for the \$15 billion which is directly appropriated in Title VIII and offset by \$4.5 billion in reductions found in Title VII.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. There are several pilot programs which are reauthorized as well as \$15 billion appropriated to the VA.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives and Rule XLIV of the Standing Rules of the Senate, neither this Conference report nor the accompanying joint statement of Conferees contains any congressional earmarks, congressionally directed spending items, limited tax benefits, or limited tariff benefits, as defined in such rules.

Constitutional Authority: No statement of Constitutional authority is available at this time.

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NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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