

110TH CONGRESS
1ST SESSION

H. R. 2855

To provide for transitional emergency assistance to certain members of the Armed Forces and veterans who are severely injured while serving on active duty, to expand and improve programs for caregiver services for those members and veterans, to require improved screening and care for traumatic brain injury for returning servicemembers and veterans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2007

Mr. RODRIGUEZ introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committees on Ways and Means and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for transitional emergency assistance to certain members of the Armed Forces and veterans who are severely injured while serving on active duty, to expand and improve programs for caregiver services for those members and veterans, to require improved screening and care for traumatic brain injury for returning servicemembers and veterans, 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. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Wounded Heroes’ Bill of Rights Act”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

6 **TITLE I—ECONOMIC**
7 **ASSISTANCE MATTERS**

8 **SEC. 101. PROVISION OF TRANSITIONAL EMERGENCY CASH**
9 **ASSISTANCE TO WOUNDED HEROES.**

10 (a) PROVISION OF EMERGENCY CASH ASSISTANCE.—

11 (1) The Secretary of Defense shall, through the head of
12 the Military Severely Injured Center of the Department
13 of Defense or through the heads of the programs to sup-
14 port the injured referred to in paragraph (2), provide
15 prompt emergency cash assistance to a Wounded Hero (as
16 defined in subsection (b)) who, due to a severe injury, due
17 to subsequent treatment for that severe injury, or due to
18 such other criteria related to that severe injury as the Sec-
19 retary may specify, is undergoing significant financial dif-
20 ficulty (as defined by the Secretary). Such emergency cash
21 assistance shall be in an appropriate amount and for an
22 appropriate period determined under regulations pre-
23 scribed by the Secretary under subsection (c) under such
24 terms and conditions as the Secretary may specify.

25 (2) For purposes of paragraph (1), the programs to
26 support the injured referred to in this paragraph are pro-

1 grams of the military departments (as defined in section
2 101(a)(8) of title 10, United States Code) to provide as-
3 sistance to members of the Armed Forces who incur severe
4 wounds or injuries while serving on active duty, and in-
5 clude the following programs:

6 (A) Military One Source.

7 (B) The Army Wounded Warrior Program.

8 (C) The Marine Corps Marine for Life Support
9 Program.

10 (D) The Air Force Palace HART Program.

11 (E) The Navy Safe Harbor.

12 (b) WOUNDED HERO DEFINED.—(1) In this Act, the
13 term “Wounded Hero” means a member of the Armed
14 Forces or a veteran who on or after September 11, 2001,
15 was severely injured while serving on active duty.

16 (2) For purposes of paragraph (1)—

17 (A) the term “severely” with respect to an in-
18 jury means—

19 (i) the inability of an individual with the
20 injury to perform one or more activities of daily
21 living,

22 (ii) a service-connected disability rated at
23 30 percent or more (as determined by the Sec-
24 retary of Defense or Secretary of Veterans Af-
25 fairs, as the case may be), or

1 (iii) such other injuries or conditions as
2 the Secretary of Defense may specify (such as
3 injuries or conditions resulting in the designa-
4 tion as very severely injured or severely in-
5 jured);

6 (B) the term “Armed Forces” has the meaning
7 given that term in section 101(a)(4) of title 10,
8 United States Code; and

9 (C) the term “veteran” has the meaning given
10 that term in section 101(2) of title 38, United
11 States Code.

12 (c) REGULATIONS.—(1) The Secretary of Defense
13 shall prescribe regulations to carry out this section which
14 may be effective and final immediately on an interim basis
15 as of the date of publication of the interim final regula-
16 tion.

17 (2) In establishing guidelines under such regulations
18 to determine the need for emergency cash assistance, the
19 amount of emergency cash assistance required, and the
20 period for which cash assistance may be required, the Sec-
21 retary shall take into account the following:

22 (A) The location of the facility providing med-
23 ical treatment to a Wounded Hero and the location
24 of the residence of the Wounded Hero.

1 (B) The effect of the injury and medical treat-
2 ment of a wounded hero on family members, includ-
3 ing—

4 (i) the cost of travel to and, if applicable,
5 temporarily relocate to reside near the facility
6 where the Wounded Hero is receiving medical
7 treatment, and

8 (ii) the financial impact on family members
9 who care for the Wounded Hero.

10 (C) Any change in pay status of a Wounded
11 Hero.

12 (D) Any applicable incorrect orders.

13 (E) Debts owed by a Wounded Hero to the
14 United States for equipment issued, or overpayment
15 made, to the Wounded Hero by the military depart-
16 ment concerned.

17 (F) Level of indebtedness of the Wounded Hero
18 and family, including consideration of the ability of
19 the family to secure basic necessities of life, such as
20 food and shelter.

21 (G) Consideration of the standard of living of
22 the Wounded Hero and family before the severe in-
23 jury was incurred.

24 (d) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Secretary of De-

1 fense \$50,000,000 for each fiscal year, beginning with fis-
2 cal year 2008, to carry out this section.

3 **SEC. 102. CREDIT FOR EMPLOYERS HIRING WOUNDED HE-**
4 **ROES.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
6 chapter A of chapter 1 of the Internal Revenue Code of
7 1986 (relating to business-related credits) is amended by
8 adding at the end the following new section:

9 **“SEC. 450. CREDIT FOR EMPLOYERS HIRING WOUNDED HE-**
10 **ROES.**

11 “(a) GENERAL RULE.—For purposes of section 38,
12 the Wounded Hero employment credit for the taxable year
13 shall be equal to—

14 “(1) 50 percent of the qualified first-year wages
15 for such year,

16 “(2) 30 percent of the qualified second-year
17 wages for such year, and

18 “(3) 20 percent of the qualified third-year
19 wages for such year.

20 “(b) QUALIFIED WAGES.—For purposes of this sec-
21 tion—

22 “(1) IN GENERAL.—The term ‘qualified wages’
23 means the wages paid or incurred by the employer
24 during the taxable year to individuals who are

1 Wounded Heroes, but in no case greater than
2 \$60,000.

3 “(2) QUALIFIED FIRST-YEAR WAGES.—The
4 term ‘qualified first-year wages’ means, with respect
5 to any individual, qualified wages attributable to
6 service rendered during the 1-year period beginning
7 with the day the individual begins work for the em-
8 ployer.

9 “(3) QUALIFIED SECOND-YEAR WAGES.—The
10 term ‘qualified second-year wages’ means, with re-
11 spect to any individual described in paragraph (2),
12 qualified wages attributable to service rendered dur-
13 ing the 1-year period beginning with the day that
14 succeeds the 1-year period referred to in paragraph
15 (2).

16 “(4) QUALIFIED THIRD-YEAR WAGES.—The
17 term ‘qualified third-year wages’ means, with respect
18 to any individual described in paragraph (3), quali-
19 fied wages attributable to service rendered during
20 the 1-year period beginning with the day that suc-
21 ceeds the 1-year period referred to in paragraph (3).

22 “(5) WAGES.—The term ‘wages’ has the mean-
23 ing given such term by section 51(c), without regard
24 to paragraph (4) thereof.

1 “(c) WOUNDED HERO; HIRING DATE.—For purposes
2 of this section—

3 “(1) WOUNDED HERO.—The term ‘Wounded
4 Hero’ means a veteran (as that term is defined in
5 section 101(2) of title 38) who, on or after Sep-
6 tember 11, 2001, was severely injured while serving
7 on active duty.

8 “(2) SEVERELY INJURED.—For purposes of
9 paragraph (1), the term ‘severely’ with respect to an
10 injury means—

11 “(A) the inability of an individual with the
12 injury to perform one or more activities of daily
13 living (as determined by the Secretary of Vet-
14 erans Affairs),

15 “(B) a service-connected disability rated at
16 30 percent or more (as determined by the Sec-
17 retary of Veterans Affairs), and

18 “(C) such other injuries or conditions as
19 the Secretary of Defense has specified under
20 section 101(b)(2)(A)(iii) of the Wounded He-
21 roes’ Bill of Rights Act.

22 “(3) HIRING DATE.—The term ‘hiring date’ has
23 the meaning given such term by section 51(d).

24 “(d) CERTAIN RULES TO APPLY.—Rules similar to
25 the rules of section 52, and subsections (d)(11), (f), (g),

1 (i) (as in effect on the day before the date of the enact-
 2 ment of the Taxpayer Relief Act of 1997), (j), and (k)
 3 of section 51, shall apply for purposes of this section.”.

4 (b) CREDIT TO BE PART OF GENERAL BUSINESS
 5 CREDIT.—Subsection (b) of section 38 of such Code is
 6 amended by striking “and” at the end of paragraph (30),
 7 by striking the period at the end of paragraph (31) and
 8 inserting “, plus”, and by adding at the end the following
 9 new paragraph:

10 “(32) the Wounded Hero employment credit de-
 11 termined under section 45O(a).”.

12 (c) TECHNICAL AMENDMENTS.—

13 (1) Clause (iii) of section 41(b)(2)(D) of such
 14 Code is amended to read as follows:

15 “(iii) EXCLUSION FOR WAGES TO
 16 WHICH EMPLOYMENT CREDITS APPLY.—
 17 The term ‘wages’ shall not include any
 18 amount taken into account in determining
 19 the credit under section 45O(a) or 51(a).”.

20 (2) Subparagraph (B) of section 45A(b)(1) of
 21 such Code is amended to read as follows:

22 “(B) COORDINATION WITH OTHER EM-
 23 PLOYMENT CREDITS.—The term ‘qualified
 24 wages’ shall not include wages attributable to
 25 service rendered during the 1-year period begin-

1 ning with the day the individual begins work for
 2 the employer if any portion of such wages is
 3 taken into account in determining the credit
 4 under section 45O or 51.”

5 (3) Subsection (a) of section 280C of such Code
 6 is amended by inserting “45O(a),” after “45A(a),”.

7 (4) Paragraph (3) of section 1396(c) of such
 8 Code is amended to read as follows:

9 “(3) COORDINATION WITH OTHER EMPLOY-
 10 MENT CREDITS.—

11 “(A) IN GENERAL.—The term ‘qualified
 12 wages’ shall not include wages taken into ac-
 13 count in determining the credit under section
 14 45O or 51.

15 “(B) COORDINATION WITH PARAGRAPH
 16 (2).—The \$15,000 amount in paragraph (2)
 17 shall be reduced for any calendar year by the
 18 amount of wages paid or incurred during such
 19 year which are taken into account in deter-
 20 mining the credits under sections 45O and
 21 51.”.

22 (d) CLERICAL AMENDMENT.—The table of sections
 23 for subpart D of part IV of subchapter A of chapter 1
 24 of such Code is amended by adding at the end the fol-
 25 lowing new item:

“Sec. 45O. Credit for employers hiring Wounded Heroes.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to individuals who begin work for
3 the employer after the date of the enactment of this Act.

4 **SEC. 103. EXPANSION OF PROTECTIONS UNDER**
5 **SERVICEMEMBERS CIVIL RELIEF ACT.**

6 (a) EXTENSION OF PERIOD OF MORTGAGE FORE-
7 CLOSURE PROTECTION.—

8 (1) 12 MONTHS.—Section 303(c) of the
9 Servicemembers Civil Relief Act (50 U.S.C. App.
10 533(c)) is amended by inserting after “90 days” the
11 following: “, or in the case of a Wounded Hero (as
12 defined in section 101(b) of the Wounded Heroes’
13 Bill of Rights Act) one year,”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by paragraph (1) shall apply with respect to any
16 person performing a period of military service (as
17 such term is defined in section 101(2) of such Act
18 (50 U.S.C. App. 511(2))) that begins on or after
19 February 1, 2003.

20 (b) EXTENSION OF PERIOD OF PROTECTION FROM
21 EVICTION.—

22 (1) 12 MONTHS.—Section 301 of the
23 Servicemembers Civil Relief Act (50 U.S.C. App.
24 531) is amended—

(A) in subsection (a)(1)(A), by inserting after “service of the servicemember” the following: “, or in the case of a Wounded Hero (as defined in section 101(b) of the Wounded Heroes’ Bill of Rights Act) during the period of such service plus one year,”; and

(B) in subsection (b)(1)(A), by inserting after “90 days” the following: “, or in the case of a Wounded Hero (as defined in section 101(b) of the Wounded Heroes Bill of Rights Act) one year,”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to any person performing a period of military service (as such term is defined in section 101(2) of such Act (50 U.S.C. App. 511(2))) that begins on or after February 1, 2003.

(c) PROTECTION OF CREDIT RATINGS.—

(1) PROTECTION.—

(A) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by inserting at the end of title I the following new section:

1 **“SEC. 110. PROTECTION OF CREDIT RATINGS OF PERSONS**
2 **ACTIVATED FOR MILITARY SERVICE.**

3 “(a) REQUIREMENTS OF NOTATION OF DELINQUENT
4 OR SLOW PAYMENT DUE TO MILITARY SERVICE.—Any
5 person or entity engaged in the practice of assembling or
6 evaluating consumer credit information that receives from
7 a creditor a negative report of nonpayment or late pay-
8 ment with respect to a qualifying account of a person in
9 military service, or in the case of a Wounded Hero (as
10 defined in section 101(b) of the Wounded Heroes Bill of
11 Rights Act) during the period of such military service plus
12 one year, shall enter with that negative report a notation
13 that the account is delinquent or paid slowly due to mili-
14 tary service.

15 “(b) NEGATIVE INFORMATION TO BE DIS-
16 REGARDED.—Any future potential creditor of such person
17 who receives a credit report that includes a notation re-
18 quired by subsection (a) shall disregard any negative in-
19 formation so noted in the credit report.

20 “(c) QUALIFYING ACCOUNTS.—(1) Except as pro-
21 vided in paragraph (2), for purposes of this section, a
22 qualifying account is an account that was opened by a per-
23 son in military service before the date on which that per-
24 son entered that period of military service, but only with
25 respect to obligations incurred before such date.

1 “(2) In the case of a Wounded Hero (as so defined),
 2 a qualifying account includes obligations incurred after the
 3 date on which that person entered the period of military
 4 service involved but does not include obligations incurred
 5 after the one-year period beginning on the date the person
 6 qualified as a Wounded Hero.”.

7 (d) CLERICAL AMENDMENT.—The table of contents
 8 in section 1(b) of such Act is amended by inserting after
 9 the item relating to section 109 the following new item:

“Sec. 110. Protection of credit ratings of persons activated for military service.”.

10 **TITLE II—HEALTH CARE** 11 **MATTERS**

12 **SEC. 201. EXPANSION AND MODIFICATION OF MEDICAL AS-** 13 **SISTANCE PROGRAMS TO MEET THE NEEDS** 14 **OF WOUNDED HEROES AND THEIR FAMILIES.**

15 (a) SPECIALLY TAILORED PROGRAM.—(1) Sub-
 16 chapter II of chapter 17 of title 38, United States Code,
 17 is amended by adding at the end the following new sec-
 18 tions:

19 **“§ 1720F. Improvement of medical services for** 20 **wounded heroes**

21 “(a) Requirement for uniform and sufficient assist-
 22 ance.—In providing the medical services specified in sub-
 23 section (c) to a veteran who is a Wounded Hero, the Sec-
 24 retary shall ensure the provision of sufficient services in

1 a uniform manner to meet the needs of all such veterans
2 without regard to geographic location of the residences of
3 such veterans. The scope and intensity of services required
4 by this section shall be sufficient to permit the spouse of
5 the veteran, who would otherwise be providing care in the
6 home to the veteran, to be employed on a full-time basis
7 or go to school on a full-time basis.

8 “(b) MODIFICATION OF SERVICES TO MEET NEEDS
9 OF WOUNDED HEROES.—The medical services required to
10 be provided to Wounded Heroes under subsection (a) shall
11 be tailored to meet the needs of the population of Wound-
12 ed Heroes and shall include specialized programs for the
13 rehabilitation of such veterans, reintegration of such vet-
14 erans into civilian life, and promotion of independent liv-
15 ing for such veterans.

16 “(c) SPECIFICATION OF MEDICAL SERVICES.—The
17 medical services referred to in subsection (a) are the fol-
18 lowing:

19 “(1) Adult day health care under section
20 1710(b) of this title.

21 “(2) Home health services under section 1717
22 of this title.

23 “(3) Respite care under section 1720B of this
24 title.

25 “(4) Home-based primary care.

1 “(5) Hospice services.

2 “(6) Such other noninstitutional extended care
3 services (as defined in section 1701(10)(B) of this
4 title) as the Secretary determines to be appropriate.

5 “(7) Any modality of noninstitutional long-term
6 care.

7 “(8) Coordination of care and services, includ-
8 ing services for readjustment and rehabilitation.

9 “(9) Transportation services.

10 “(10) If eligible, care and services under section
11 1745 of this title.

12 “(d) DEFINITION.—(1) In this section and sections
13 321 and 1720G of this title, the term ‘Wounded Hero’
14 means a veteran who on or after September 11, 2001, was
15 severely injured while serving on active duty.

16 “(2) For purposes of paragraph (1), the term ‘se-
17 verely’ with respect to an injury means—

18 “(A) the inability of an individual with the in-
19 jury to perform one or more activities of daily living,

20 “(B) a service-connected disability rated at 30
21 percent or more (as determined by the Secretary or
22 the Secretary of Defense, as the case may be), or

23 “(C) such other injuries or conditions as the
24 Secretary of Defense has specified under section

1 101(b)(2)(A)(iii) of the Wounded Heroes’ Bill of
2 Rights Act.

3 **“§ 1720G. Caregiver support program for family mem-**
4 **bers of Wounded Heroes**

5 “(a) PROGRAM OF ASSISTANCE FOR CAREGIVERS.—
6 Subject to section 1710(a)(4) of this title, the Secretary
7 shall operate and maintain a program in caregiver edu-
8 cation, training, and certification for family members of
9 a Wounded Hero (as defined in section 1720F(d) of this
10 title) in caregiver activities in accordance with this section
11 at the election of the family member. The program shall
12 be provided either directly by the Secretary or through
13 contracts administered by the Secretary.

14 “(b) PAYMENT FOR FAMILY MEMBERS WHO PRO-
15 VIDE CAREGIVER SERVICES.—The program established
16 under subsection (a) shall include payment to a family
17 member of a Wounded Hero who has been certified by
18 the Secretary as a provider of caregiver services to provide
19 such services to the Wounded Hero. Payment for such
20 services shall be made at such rates, and for such periods,
21 as the Secretary may specify.

22 “(c) REGULATIONS.—The Secretary shall prescribe
23 regulations to carry out this section.”.

24 (2) Subsection (a)(4) of section 1710 of such title is
25 amended—

1 (A) by striking “and” before “the requirement
2 in section 1710B of this title”; and

3 (B) by inserting “, and the requirement in sec-
4 tion 1720G of this title to operate a caregiver sup-
5 port program for family members of Wounded He-
6 roes” after “a program of extended care services”.

7 (3) The table of sections at the beginning of chapter
8 17 of such title is amended by inserting after the item
9 relating to section 1720E the following new items:

“1720F. Improvement of medical services for Wounded Heroes.

“1720G. Caregiver support program for family members of Wounded Heroes.”.

10 (b) CONFORMING REQUIREMENT UNDER TITLE
11 10.—(1) Chapter 55 of title 10, United States Code, is
12 amended by inserting after section 1074k the following
13 new section:

14 **“§ 10741. Modification of medical care for Wounded**
15 **Heroes; caregiver support program for**
16 **family members of Wounded Heroes**

17 “(a) PROGRAM OF ASSISTANCE FOR CAREGIVERS.—
18 The secretary of defense shall enter into an agreement
19 with the secretary of veterans affairs, under the provisions
20 of section 8111 of title 38, to provide—

21 “(1) the medical services required under section
22 1720F of title 38 to members of the armed forces
23 who would be Wounded Heroes (as defined in sub-

1 section (d) of such section 1720F) if discharged or
 2 released from active duty, and

3 “(2) a program of caregiver support under sec-
 4 tion 1720G of title 38 to family members of such
 5 members of the armed forces.

6 “(b) MEDICAL SERVICES AND ASSISTANCE.—The
 7 agreement entered into under subsection (a) shall provide
 8 for the same type and scope of assistance and services as
 9 are provided by the Secretary of Veterans Affairs to vet-
 10 erans and their family members under sections 1720F and
 11 1720G of title 38, and meet the same requirements for
 12 the provision of such medical services and assistance
 13 under such sections.”.

14 (2) The table of sections at the beginning of chapter
 15 55 of such title is amended by inserting after the item
 16 relating to section 1074k the following new item:

“10741. Modification of medical care for Wounded Heroes; caregiver support
 program for family members of Wounded Heroes.”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall take effect on October 1, 2007, and apply
 19 to care furnished on or after such date.

20 **SEC. 202. AUTHORITY TO TREAT CERTAIN WOUNDED HE-**
 21 **ROES AT NON-DEPARTMENT FACILITIES.**

22 (a) CARE AT NONDEPARTMENT FACILITIES.—Sec-
 23 tion 1703 of title 38, united states code, is amended—

1 (1) by redesignating subsections (b), (c), and
2 (d) as subsections (c), (d), and (e), respectively;

3 (2) by inserting after subsection (a) the fol-
4 lowing new subsection (b):

5 “(b)(1) In the case of a wounded hero (as defined
6 in subsection (d) of section 1720f of this title) who re-
7 quires hospital care or medical services as authorized
8 under section 1710 of this title, the secretary shall, at the
9 election of the wounded hero, contract with non-Depart-
10 ment facilities in order to furnish the care or services de-
11 scribed in subsection (a) if the secretary determines
12 that—

13 “(A) the closest Department facility is more
14 than a 60-minute drive from the residence of the
15 veteran;

16 “(B) the severity of the condition of the veteran
17 for which care or services is required is such that
18 transport of the veteran to the closest Department
19 facility in lieu of a more proximate nondepartment
20 facility would have an adverse effect on the health
21 or well-being of the veteran; or

22 “(C) reasonably proximate Department facilities
23 to the veteran do not furnish the specialized care or
24 services required to treat the condition of the vet-
25 eran.

1 “(2) A Wounded Hero who elects under paragraph
2 (1) to receive care or services at a non-Department facility
3 shall not be required to make any payment to the non-
4 Department facility for such care or services in excess of
5 the amount of payment the Wounded Hero would be re-
6 quired to make to the Secretary for such care or services
7 if furnished at a Department facility.”; and

8 (3) in subsection (c), as so redesignated in
9 paragraph (1), by striking “subsection (a) of this
10 section” and inserting “subsection (a) or (b)”.

11 (b) CONFORMING REQUIREMENT UNDER TITLE
12 10.—Paragraph (2) of subsection (c) of section 1074 of
13 title 10, united states code, is amended—

14 (1) by redesignating subparagraph (C) as sub-
15 paragraph (D); and

16 (2) by inserting after subparagraph (B) the fol-
17 lowing new subparagraph (C):

18 “(C)(i) In the case of a member of the
19 armed forces described in section 1074l of this
20 title who requires medical care, the secretary
21 may provide for such care to be furnished in a
22 private facility or health care provider if the
23 secretary determines that—

24 “(I) the closest military medical
25 treatment facility, the closest facility

1 under the jurisdiction of the Depart-
2 ment of Veterans Affairs, or the clos-
3 est military health care provider is
4 more than a 60-minute drive from the
5 residence of the veteran;

6 “(II) the severity of the condition
7 of the member for which medical care
8 is required is such that transport of
9 the member to the closest facility or
10 health care provider referred to in
11 subclause (I) in lieu of a more proxi-
12 mate private facility or health care
13 provider would have an adverse effect
14 on the health or well-being of the
15 member; or

16 “(III) reasonably proximate fa-
17 cilities or health care providers re-
18 ferred to in subclause (I) to the mem-
19 ber do not furnish the specialized
20 medical care required to treat the con-
21 dition of the member.

22 “(ii) A member of the uniformed serv-
23 ices who elects under clause (i) to receive
24 care or services at a private facility shall
25 not be required to make any payment to

1 the private facility for such care or services
 2 in excess of the amount of payment the
 3 member would be required to make to the
 4 Secretary for such care or services if fur-
 5 nished at a military medical treatment fa-
 6 cility, a facility under the jurisdiction of
 7 the Department of Veterans Affairs, or a
 8 military health care provider.”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall take effect on October 1, 2007, and apply
 11 to care furnished on or after such date.

12 **SEC. 203. REQUIREMENT TO TREAT CERTAIN WOUNDED**
 13 **HEROES SUFFERING FROM TRAUMATIC**
 14 **BRAIN INJURY AT NON-DEPARTMENT FACILI-**
 15 **TIES.**

16 (a) REQUIREMENT UPON ELECTION BY WOUNDED
 17 HERO.—Subsection (b) of section 1703 of title 38, United
 18 States Code, as inserted by section 202(a)(2), is amended
 19 by adding at the end the following new paragraph:

20 “(3)(A) In the case of a Wounded Hero who,
 21 before being discharged or released from active duty,
 22 received care for a traumatic brain injury at a non-
 23 Department facility (under a contractual arrange-
 24 ment under the Tricare program under chapter 55
 25 of title 10) who requires continued hospital care or

1 medical services authorized section 1710 of this title
2 for that traumatic brain injury, upon the election of
3 the Wounded Hero, the Secretary shall contract with
4 such non-Department facility to continue to furnish
5 the care or services described in subsection (a) for
6 such injury without regard to any of the require-
7 ments referred to in subparagraphs (A) through (C)
8 of paragraph (1).

9 “(B) In the case of an election under subpara-
10 graph (A), the Secretary and the Secretary of De-
11 fense shall ensure that there is no disruption in the
12 furnishing of care and services to the Wounded Hero
13 for the traumatic brain injury at such non-Depart-
14 ment facility.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on October 1, 2007, and apply
17 to care furnished on or after such date.

18 **SEC. 204. REQUIREMENT FOR MENTAL HEALTH AND TRAU-**
19 **MATIC BRAIN INJURY SCREENING FOR**
20 **SERVICEMEMBERS RETURNING FROM COM-**
21 **BAT THEATRES; RELATED FAMILY COUN-**
22 **SELING AND SUPPORT.**

23 Section 1074f(b) of title 10, United States Code, is
24 amended—

1 (1) by striking the second sentence of para-
2 graph (1); and

3 (2) by adding at the end the following new
4 paragraph:

5 “(3)(A) The postdeployment examination shall
6 include a comprehensive mental health assessment to
7 include traumatic brain injury screening conducted
8 on an individualized basis by personnel qualified to
9 conduct such examinations using a thorough clinical
10 assessment tool that takes into account the nature
11 of traumatic brain injuries.

12 “(B) The administering secretaries shall ensure
13 that qualified counselors are available at the site of
14 the postdeployment examination to personnel and
15 their spouses and dependents to provide counseling
16 and education on traumatic brain injury, on the be-
17 havioral and emotional consequences associated with
18 such an injury, and the availability of appropriate
19 family counseling and support services.”.

20 **SEC. 205. WOUNDED HEROES ADVOCATES.**

21 (a) **SPECIALLY TAILORED PROGRAM.**—(1) Chapter 3
22 of title 38, United States Code, is amended adding at the
23 end the following new section:

1 **“§ 321. Wounded Heroes advocates**

2 “(a) ESTABLISHMENT.—There is in the Department
3 an Office for Wounded Heroes Advocates. There is at the
4 head of the office a Director of Wounded Heroes Advo-
5 cates.

6 “(b) MISSION.—The Office for Wounded Heroes Ad-
7 vocates consists of qualified counselors who shall serve as
8 advocates and case managers for each veteran or
9 servicemember who is a Wounded Hero, as defined in sec-
10 tion 1720F(d) of this title.

11 “(c) DUTIES.—Duties of a counselor under this sec-
12 tion with respect to the Wounded Heroes to whom the
13 counselor is assigned include the following:

14 “(1) Ensure that the Wounded Hero receives
15 the health care required in each setting in which
16 such care is furnished.

17 “(2) Advocate for the needs and rights of the
18 Wounded Hero.

19 “(3) Coordinate medical care required by the
20 Wounded Hero, including scheduling appointments.

21 “(4) Assist Wounded Heroes and their families
22 with the discharge procedures of the Department of
23 Defense and disability evaluation systems of the De-
24 partment of Defense and the Department.

25 “(5) Maintain regular contact between health
26 care providers and Wounded Heroes for the identi-

1 fication of symptoms of post traumatic stress dis-
2 order.

3 “(6) Assist with any documentation required by
4 the Department or the Department of Defense with
5 respect to qualifying for care or other benefits under
6 this title or title 10.

7 “(7) Maintain regular contact with the Wound-
8 ed Hero to whom the counselor has been assigned
9 with such frequency as the Secretary may specify.

10 “(8) Provide guidance and assistance with re-
11 spect to all benefits to which the Wounded Hero is
12 entitled under this title and title 10, as the case may
13 be, including providing assistance completing nec-
14 essary forms.

15 “(9) Secure family and caregiver assistance
16 under sections 1720F and 1720G of this title for eli-
17 gible family members of the Wounded Hero.

18 “(d) APPROPRIATE CASELOAD.—The Secretary shall
19 ensure that the caseload of each counselor in the Office
20 is appropriate such that each counselor may effectively
21 and expeditiously advocate for and manage the medical
22 care of each Wounded Hero who is assigned to the coun-
23 selor. In no case may a counselor under this section be
24 assigned more than 20 Wounded Heroes at any one time.

1 “(e) PERIOD OF ASSISTANCE.—(1) Subject to para-
2 graph (2), a case manager assigned to a Wounded Hero
3 shall carry out the duties under this section with respect
4 to that Wounded Hero for up to the three-year period that
5 begins on the date of such assignment.

6 “(2) The Wounded Heroes Advocate may waive the
7 limitation under paragraph (1) on a case by case basis.

8 “(f) ARRANGEMENTS FOR SEAMLESS TRANSITION.—
9 The Secretary and the Secretary of Defense shall enter
10 into arrangements to carry out this section so that coun-
11 selors appointed under this section may effectively and ex-
12 peditiously arrange for care, counseling, and benefits for
13 Wounded Heroes under laws administered by each Sec-
14 retary.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of chapter 3 of such title is amended by
17 inserting after the item relating to section 320 the fol-
18 lowing new item:

“321. Wounded Heroes Advocates.”.

**TITLE III—ADMINISTRATIVE
MATTERS**

**Subtitle A—Advisor to the
President for Wounded Heroes**

**SEC. 301. ESTABLISHMENT OF ADVISOR TO THE PRESI-
DENT FOR WOUNDED HEROES.**

(a) ESTABLISHMENT.—There is established within the Executive Office of the President an office to be known as the “Office for Wounded Heroes” (in this section referred to as the “Office”).

(b) ADVISOR TO THE PRESIDENT FOR WOUNDED WAR HEROES.—

(1) IN GENERAL.—The head of the Office shall be the Advisor to the President for Wounded Heroes (in this section referred to as the “Advisor”).

(2) APPOINTMENT.—The Advisor shall be appointed by the President and shall be responsible on a full-time basis for the duties and responsibilities described in this section.

(3) LIMITATION.—No person shall serve as Advisor while serving in any other position in the Federal Government.

(c) DUTIES.—The duties and responsibilities of the Advisor shall include the following:

1 (1) Serve as the advisor to the President on all
2 matters relating to the timely provision of all bene-
3 fits and health care services to Wounded Heroes.

4 (2) Formulate a comprehensive and well-coordi-
5 nated strategy and policies for the provision of those
6 benefits and care to Wounded Heroes, including—

7 (A) identification of problems, such as
8 gaps, duplication, and other inefficiencies) in
9 existing activities, initiatives, and programs and
10 the recommendations necessary to eliminate
11 those problems;

12 (B) establishment of measurable mile-
13 stones and targets to which Federal depart-
14 ments and agencies can be held accountable by
15 the President;

16 (C) prioritized plans to accelerate,
17 strengthen, and expand the scope of existing
18 methods of delivery of benefits and health care
19 services; and

20 (D) new and innovative initiatives and pro-
21 grams to address challenges in the provision of
22 such benefits and services to Wounded Heroes.

23 (3) Represent the President in inter-agency co-
24 ordination of Federal efforts to implement the strat-
25 egy and policies described in this section.

1 (4) Evaluate the provision of those benefits and
2 health care services by relevant Federal departments
3 and agencies.

4 (5) Make budget recommendations for Wound-
5 ed Heroes to ensure that the needs of Wounded He-
6 roes are met.

7 (d) STAFF.—The Advisor shall have such personnel
8 as may be necessary to enable the Advisor to perform his
9 duties.

10 (e) ANNUAL REPORT ON STRATEGIC PLAN.—For fis-
11 cal year 2009 and each fiscal year thereafter, the Advisor
12 shall submit to the President a report on the strategy and
13 policies developed pursuant to subsection (c), together
14 with any recommendations of the Advisor for legislative
15 changes that the Advisor considers appropriate with re-
16 spect to such strategy and policies and their implementa-
17 tion.

18 **Subtitle B—Wounded Heroes** 19 **Independent Review**

20 **SEC. 311. ESTABLISHMENT OF WOUNDED HEROES INDE-** 21 **PENDENT REVIEW BOARD.**

22 (a) IN GENERAL.—There is established the Wounded
23 Heroes Independent Review Board (in this subtitle re-
24 ferred to as the “Board”).

1 (b) INDEPENDENT ESTABLISHMENT.—The Board
2 shall be an independent establishment, as defined in sec-
3 tion 104 of title 5, United States Code.

4 (c) PURPOSE.—The purpose of the Board is to review
5 the benefits provided by the Department of Veterans Af-
6 fairs, and other Federal departments and agencies, to
7 Wounded Heroes to determine if those Wounded Heroes,
8 and their spouses, dependents, and close family members,
9 are receiving sufficient scope and intensity of services and
10 support from the Department of Veterans Affairs and
11 other Federal departments and agencies for the injuries,
12 and the consequences of those injuries, incurred while
13 serving on active duty.

14 (d) VOTING REQUIREMENT.—All decisions of the
15 Board with respect to the exercise of its duties and powers
16 under this subtitle, except those expressly reserved for de-
17 cision by the Chair, shall be made by a majority vote of
18 its members.

19 (e) MEETINGS AND QUORUM.—

20 (1) MEETINGS.—The Board shall meet not less
21 frequently that once each month as well as at the
22 call of the Chair.

23 (2) QUORUM.—A majority of the members of
24 the Board shall constitute a quorum.

1 **SEC. 312. COMPOSITION OF BOARD.**

2 (a) IN GENERAL.—The Board shall be composed of
3 5 members, 1 of whom shall serve as the Chair of the
4 Board.

5 (b) APPOINTMENT.—

6 (1) IN GENERAL.—Members of the Board shall
7 be appointed as follows:

8 (A) 1 shall be appointed by the President.

9 (B) 1 shall be appointed by the Speaker of
10 the House of Representatives.

11 (C) 1 shall be appointed by the minority
12 leader of the House of Representatives.

13 (D) 1 shall be appointed by the majority
14 leader of the Senate.

15 (E) 1 shall be appointed by the minority
16 leader of the Senate.

17 (2) CHAIR.—The President shall, at the time of
18 nomination of the first members of the Board, des-
19 ignate 1 member to serve as the Chair. Any indi-
20 vidual appointed to succeed, or to fill the unexpired
21 term of, that member (or any member succeeding
22 that member) shall serve as the Chair.

23 (c) TERM OF OFFICE.—

24 (1) IN GENERAL.—Members of the Board shall
25 be appointed for a term of 3 years.

1 (2) EXPIRED TERMS.—An individual may con-
2 tinue to serve as a member of the board after the
3 expiration of such individual’s term until the earlier
4 of—

5 (A) the date on which such individual’s
6 successor has taken office; or

7 (B) 1 year following the date on which the
8 term of such member expired.

9 (3) VACANCIES.—An individual appointed upon
10 a vacancy occurring before the expiration of the
11 term for which the individual’s predecessor was ap-
12 pointed shall be appointed only for the unexpired
13 term of the predecessor. Such vacancy shall be filled
14 in the same manner as the original appointment.

15 (d) OTHER ACTIVITIES.—An individual appointed to
16 the Board may not engage in any other business, vocation,
17 or employment while serving as a member of the Board.

18 (e) REMOVAL.—A member of the Board may be re-
19 moved by the President only for inefficiency, neglect of
20 duty, or malfeasance in office.

21 **SEC. 313. STAFF DIRECTOR.**

22 (a) IN GENERAL.—There shall be in the Board a
23 staff director.

24 (b) RESPONSIBILITIES.—The staff director—

25 (1) shall assist the Board in its operations;

1 (2) shall perform such responsibilities as the
2 Board shall prescribe; and

3 (3) may, with the approval of the chair—

4 (A) appoint and fix the pay of such addi-
5 tional personnel as the staff director considers
6 appropriate; and

7 (B) Procure temporary and intermittent
8 services to the same extent as is authorized by
9 section 3109(b) of title 5, United States Code,
10 but at rates for individuals not to exceed the
11 daily equivalent of the annual rate of basic pay
12 in effect for grade GS–15 of the General Sched-
13 ule (5 U.S.C. 5332).

14 (c) APPOINTMENT.—The staff director shall be ap-
15 pointed by the Chair, after consultation with the other
16 members of the Board.

17 (d) OTHER ACTIVITIES.—An individual appointed as
18 the staff director of the Board may not engage in any
19 other business, vocation, or employment while serving as
20 the staff director of the Board.

21 **SEC. 314. POWERS.**

22 (a) CHAIR.—

23 (1) IN GENERAL.—The Chair shall be the chief
24 administrative officer of the Board with the author-
25 ity to administer the Board and shall, after con-

1 sultation with the other members of the Board, have
2 the power to appoint or remove the staff director
3 and to establish the budget of the Board.

4 (2) OTHER POWERS.—The chair has the
5 power—

6 (A) to the fullest extent practicable, to re-
7 quest the assistance of other agencies and de-
8 partments of the United States, including the
9 personnel and facilities of such agencies and de-
10 partments, and the heads of such agencies and
11 departments may make available to the Chair
12 such personnel, facilities, and other assistance,
13 with or without reimbursement; and

14 (B) to require, by special or general or-
15 ders, any person to submit, under oath, such
16 written reports and answers to questions as the
17 Chair may prescribe.

18 (b) BOARD.—The board shall have the power—

19 (1) to render advisory opinions;

20 (2) to make, amend, and repeal rules for the
21 Board and the conduct of duties and actions of the
22 Board;

23 (3) to conduct investigations and hearings expe-
24 ditiously; and

1 (4) to transmit to the President and to Con-
2 gress not later than June 1 of each year, a report
3 which states in detail the activities of the Board in
4 carrying out its duties under this subtitle, and which
5 includes any recommendations for any legislative or
6 other action the Board considers appropriate.

7 **SEC. 315. REVIEW OF DETERMINATION OR DECISIONS OF**
8 **THE DEPARTMENT OF VETERANS AFFAIRS.**

9 (a) REQUESTS FOR REVIEW OF DEPARTMENT DE-
10 TERMINATIONS.—Upon receipt from a Wounded Hero of
11 a written request to review a decision or determination of
12 an officer or employee of the Department of Veterans Af-
13 fairs or other Federal department or agency relating to
14 eligibility for or the scope and intensity of benefits, espe-
15 cially health care or vocational rehabilitation benefits, pro-
16 vided to the Wounded Hero, the Board shall conduct such
17 a review expeditiously.

18 (b) PROVISION OF ADVISORY OPINIONS.—

19 (1) IN GENERAL.—After conducting a review
20 pursuant to subsection (a), the Board shall promptly
21 render a written advisory opinion relating to such
22 eligibility or provision of such care or benefits.

23 (2) DELIVERY OF ADVISORY OPINIONS.—After
24 rendering an advisory opinion under paragraph (1),
25 the board shall promptly mail a copy of the written

1 advisory opinion to the claimant at the last known
2 address of the claimant. If requested by the claim-
3 ant, the board shall also mail a copy of the written
4 advisory opinion—

5 (A) to the official or employee of the Fed-
6 eral department or agency that issued the deci-
7 sion or determination which gave rise to the re-
8 quest for review under subsection (a); and

9 (B) to the head of the Federal department
10 or agency involved.

11 (c) CONSIDERATION OF ADVISORY OPINION.—An ad-
12 visory opinion rendered by the Board under this section
13 with respect to a Wounded Hero shall be considered as
14 evidence by the Board of Veterans' Appeals (established
15 under chapter 71 of title 38, United State Code) and the
16 United States Court of Appeals for Veterans' Claims (es-
17 tablished under chapter 72 of such title) in any case with
18 respect to the Wounded Hero before the Board of Vet-
19 erans' Appeals or United States Court of Appeals for Vet-
20 erans' Claims, as the case may be, upon submission by
21 the Wounded Hero.

22 (d) PROHIBITION ON REVIEW OF ADVISORY OPIN-
23 ION.—An advisory opinion rendered by the Board under
24 this section may not be reviewed by any other official or

1 by any court, whether by an action in the nature of man-
2 damus or otherwise.

3 **SEC. 316. AUDITS AND INVESTIGATIONS; REPORTS.**

4 (a) IN GENERAL.—The Board may conduct such au-
5 dits and investigations as the Chair deems necessary.

6 (b) ANNUAL REPORTS.—Not later than June 1 of
7 each year, beginning with 2009, the Board shall submit
8 to Congress and to the President an annual report on the
9 activities of the Board during the preceding years. The
10 report shall include such recommendations for administra-
11 tive action or legislation as the Board determines to be
12 appropriate.

13 **SEC. 317. CONGRESSIONAL OVERSIGHT.**

14 Nothing in this Act shall be construed to limit, re-
15 strict, or diminish any investigatory, informational, over-
16 sight, supervisory, or disciplinary authority or function of
17 Congress or any committee of Congress with respect to
18 veterans' benefits generally, or those benefits as applied
19 in the case of Wounded Heroes.

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