

110TH CONGRESS  
2D SESSION

# H. R. 5465

To require the Department of Defense to implement a pain care initiative,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2008

Mr. LOEBSACK (for himself, Mr. GILCHREST, Mr. BISHOP of Georgia, Mr. JOHNSON of Georgia, Mr. BRADY of Pennsylvania, Mr. ABERCROMBIE, Mr. BRALEY of Iowa, Ms. HOOLEY, and Ms. SHEA-PORTER) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To require the Department of Defense to implement a pain  
care initiative, 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,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Military Pain Care Act of 2008”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Findings.

Sec. 3. Pain care initiative in military health care facilities.

Sec. 4. Pain care standards in TRICARE plans.

Sec. 5. Report of Comptroller General.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Acute and chronic pain are prevalent condi-  
4 tions among active duty and retired military per-  
5 sonnel.

6 (2) Characteristics of modern warfare, includ-  
7 ing the use of improvised explosive devices, produce  
8 substantial numbers of battlefield casualties with  
9 significant damage to both the central and periph-  
10 eral nervous systems.

11 (3) The successes of military health care both  
12 on and off the battlefield result in high survival  
13 rates of severely injured military personnel who will  
14 be afflicted with significant pain disorders on either  
15 an acute or chronic basis.

16 (4) Failure to treat acute pain promptly and  
17 appropriately at the time of injury, during initial  
18 medical and surgical care, and at the time of transi-  
19 tion to community-based care, contributes to the de-  
20 velopment of long-term chronic pain syndromes, in  
21 some cases accompanied by long-term mental health  
22 and substance abuse disorders.

23 (5) Pain is a leading cause of short- and long-  
24 term disability among military personnel.

1           (6) The military health care systems have im-  
2           plemented important pain care programs at some fa-  
3           cilities and in some areas, but comprehensive pain  
4           care is not consistently provided on a uniform basis  
5           throughout the systems to all patients in need of  
6           such care.

7           (7) Inconsistent and ineffective pain care leads  
8           to pain-related impairments, occupational disability,  
9           and medical and mental complications with long-  
10          term costs for the military health and disability sys-  
11          tems, and for society at large.

12          (8) Research, diagnosis, treatment, and man-  
13          agement of acute and chronic pain in the active duty  
14          and retired military populations constitute health  
15          care priorities of the United States.

16 **SEC. 3. PAIN CARE INITIATIVE IN MILITARY HEALTH CARE**  
17 **FACILITIES.**

18          (a) REQUIREMENT.—

19               (1) IN GENERAL.—Chapter 55 of title 10,  
20          United States Code, is amended by adding at the  
21          end the following new section:

22 **“§ 1110a. Pain care**

23          “(a) PAIN CARE INITIATIVE REQUIREMENT.—The  
24          Secretary of Defense, in coordination with the Secretary  
25          of Veterans Affairs, the Secretary of Health and Human

1 Services, and the Surgeon General of the United States,  
2 shall develop and implement a pain care initiative in all  
3 health care facilities of the uniformed services.

4 “(b) MATTERS COVERED.—(1) The initiative shall be  
5 designed to ensure that all active and retired members of  
6 the uniformed services and their dependents receiving  
7 treatment in health care facilities of the uniformed serv-  
8 ices—

9 “(A) are assessed for pain at the time of admis-  
10 sion or initial treatment, and periodically thereafter,  
11 using a professionally recognized pain assessment  
12 tool or process; and

13 “(B) receive appropriate pain care consistent  
14 with recognized means for assessment, diagnosis,  
15 treatment and management of acute and chronic  
16 pain, including, in appropriate cases, access to spe-  
17 cialty pain management services.

18 “(2) The initiative shall include the training and de-  
19 ployment of acute pain personnel and services at all Level  
20 III care facilities, and, to the extent feasible, on the battle-  
21 field.

22 “(c) IMPLEMENTATION.—The Secretary of Defense  
23 shall implement the pain care initiative—

1           “(1) in the case of inpatient care, not later than  
2           12 months after the date of the enactment of this  
3           section; and

4           “(2) in the case of outpatient care, not later  
5           than 18 months after the date of the enactment of  
6           this section.”.

7           (2) CLERICAL AMENDMENT.—The table of sec-  
8           tions at the beginning of such chapter is amended  
9           by adding at the end the following new item:

“1110a. Pain care.”.

10          (b) REPORT.—Not later than nine months after the  
11          date of the enactment of this Act, the administering Secre-  
12          taries (as defined in section 1072(3) of title 10, United  
13          States Code), shall submit to the congressional defense  
14          committees a report on the status of the development and  
15          implementation of the pain care initiative required under  
16          section 1110a of title 10, United States Code, as added  
17          by subsection (a).

18          **SEC. 4. PAIN CARE STANDARDS IN TRICARE PLANS.**

19          (a) IN GENERAL.—Section 1097 of title 10, United  
20          States Code, is amended by adding at the end the fol-  
21          lowing new subsection:

22          “(f) PAIN CARE STANDARDS.—(1) Any contract en-  
23          tered into under this section shall include the provision  
24          of appropriate care for the treatment of patients in pain  
25          that—

1           “(A) is consistent with recognized means for as-  
2           sessment, diagnosis, treatment, and management of  
3           acute and chronic pain;

4           “(B) includes evaluation and treatment of ac-  
5           companying illnesses, including depression, other  
6           mental health disorders, sleep disturbance, and sub-  
7           stance abuse;

8           “(C) provides medical and other health services  
9           through physicians and other practitioners appro-  
10          priately credentialed or experienced in pain manage-  
11          ment;

12          “(D) provides for referral of patients with  
13          chronic pain to specialists, and, in appropriate cases,  
14          to a comprehensive multidisciplinary pain manage-  
15          ment program;

16          “(E) continues treatment for as long as treat-  
17          ment is required to maximize the quality of life and  
18          functional capacity of the patient; and

19          “(F) permits physicians and other practitioners  
20          appropriately credentialed or experienced in pain  
21          management to make clinical decisions with respect  
22          to the need for and the extent and duration of pain  
23          care services.

24          “(2) In this subsection:

1           “(A) The term ‘chronic pain’ means severe, per-  
2           sistent, or recurrent pain, regardless of causation or  
3           body location, that interferes with the activities of  
4           daily living, and has not been significantly reduced  
5           or ameliorated despite reasonable treatment efforts.

6           “(B) The term ‘comprehensive multidisciplinary  
7           pain management program’ means an inpatient or  
8           outpatient health care facility or program that—

9                   “(i) provides at least medical, nursing,  
10                  mental health, and rehabilitation services  
11                  through licensed health care professionals;

12                  “(ii) provides or arranges for the provision  
13                  of inpatient and outpatient hospital and reha-  
14                  bilitation facility services, drugs, devices, and  
15                  other items and services required for the treat-  
16                  ment of chronic pain;

17                  “(iii) provides ongoing patient and profes-  
18                  sional education for pain management;

19                  “(iv) is accredited as a comprehensive pain  
20                  management program by an accrediting organi-  
21                  zation approved by the Secretary, including the  
22                  Joint Commission on the Accreditation of  
23                  Health Care Organizations or the Rehabilita-  
24                  tion Accreditation Commission; and

1           “(v) is directed by one or more physicians  
2           credentialed in pain management (or, in appro-  
3           priate cases, dentistry) by a board or boards  
4           approved by the Secretary, which shall include  
5           the American Board of Pain Medicine and  
6           boards recognized by the American Board of  
7           Medical Specialties.

8           “(3) COMPLIANCE.—A contractor may comply with  
9           the requirements set forth in this subsection by providing  
10          care through its own network of participating providers,  
11          or under arrangement with out-of-network providers, but  
12          in no event may a contractor impose higher costs on its  
13          enrollees in the form of deductibles, copayments, pre-  
14          miums, or otherwise, in the event appropriate pain care  
15          in accordance with the standards set forth in this sub-  
16          section is provided out-of-network.”.

17          (b) EFFECTIVE DATE.—The amendment made by  
18          subsection (a) shall apply to contracts entered into on or  
19          after the date occurring one year after the date of the en-  
20          actment of this Act.

21       **SEC. 5. REPORT OF COMPTROLLER GENERAL.**

22          (a) REPORT.—The Comptroller General shall conduct  
23          a study of, and deliver to the congressional defense com-  
24          mittees not later than six months after the date of the  
25          enactment of this Act a report on, the adequacy of pain

1 care in the health care facilities, services, and programs  
2 of the Department of Defense.

3 (b) PURPOSES.—The purposes of the study and re-  
4 port shall be to evaluate the consistency, across programs,  
5 facilities, relevant demographic groups, and geographic re-  
6 gions, with which—

7 (1) patients are initially assessed and periodi-  
8 cally reassessed for pain;

9 (2) both acute and chronic pain are promptly  
10 and appropriately diagnosed, treated, and managed;

11 (3) patients and their families or other care-  
12 givers are included as active participants in pain  
13 management;

14 (4) pain care is provided in a comprehensive  
15 and interdisciplinary manner where appropriate; and

16 (5) health care professionals in military facili-  
17 ties are adequately trained in pain management.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—For pur-  
19 poses of carrying out this section, there is authorized to  
20 be appropriated such sums as may be necessary for fiscal  
21 years 2009 through 2011.

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