

VETERANS ACCOUNTABILITY ACT OF 2013

SEPTEMBER 25, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLER of Florida, from the Committee on Veterans’ Affairs, submitted the following

R E P O R T

[To accompany H.R. 1804]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans’ Affairs, to whom was referred the bill (H.R. 1804) to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to submit to Congress semiannual reports on the cost of foreign travel made by employees of the Department of Veterans Affairs, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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AMENDMENT

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans Accountability Act of 2013”.

SEC. 2. SEMIANNUAL REPORTS TO CONGRESS ON COST OF CERTAIN TRAVEL.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 518. Semiannual reports to Congress on cost of certain travel

“(a) SEMIANNUAL REPORTS.—Not later than June 30, 2014, and not later than 60 days after each 180-day period thereafter, the Secretary shall submit to the Committee on Veterans’ Affairs of the House of Representatives and the Committee on Veterans’ Affairs of the Senate a semiannual report on covered travel made during the 180-day period covered by the report.

“(b) MATTERS INCLUDED.—Each report under subsection (a) shall include the following:

“(1) With respect to each instance of covered travel made during the period covered by the report—

- “(A) the purpose of such travel;
- “(B) the destination;
- “(C) the name and title of each employee included on such travel;
- “(D) the duration of such travel;
- “(E) the total cost to the Department of such travel; and
- “(F) with respect to covered travel described in subsection (d)(2), the identity of the person or entity that paid or reimbursed for such travel.

“(2) The final costs to the Department with respect to all covered travel made during the period covered by the report, including costs relating to—

- “(A) transportation, including fares for travel by air, rail, bus, ferry, cruise ship, taxi, mass transit, or other mode of transportation;
- “(B) expenses or reimbursements relating to operating and maintaining a car, including the costs of fuel and mileage;
- “(C) passport and visa fees;
- “(D) lodging;
- “(E) per diem payments;
- “(F) baggage charges;
- “(G) computer rental fees;
- “(H) rental of halls, auditoriums, or other spaces;
- “(I) entertainment;
- “(J) contractors;
- “(K) registration fees; and
- “(L) promotional items.

“(c) DUPLICATIVE INFORMATION.—Each report under subsection (a) shall include the information described in subsection (b) regardless of whether such information is also included in a report under section 517 of this title.

“(d) COVERED TRAVEL DEFINED.—In this section, the term ‘covered travel’ means travel made by an employee of the Department of Veterans Affairs, including an employee who is stationed in a foreign country, on official business to any of the following locations:

“(1) If the Department or other element of the Federal Government pays for such travel, a location outside of—

- “(A) the several States;
- “(B) the District of Columbia;
- “(C) a territory, commonwealth, or possession of the United States;
- “(D) Indian lands (as defined in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4))); or
- “(E) the territorial waters of the United States.

“(2) If any person or entity other than the Federal Government pays (or reimburses) for such travel, any location, regardless of whether the location is inside or outside of the United States.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 517 the following new item:

“518. Semiannual reports to Congress on cost of certain travel.”.

SEC. 3. REPORT OF INFECTIOUS DISEASE AT MEDICAL FACILITIES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Section 7311 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(f)(1) The Secretary shall report to the appropriate entity each case of a notifiable infectious disease or condition that is diagnosed at a medical facility of the Department of Veterans Affairs in accordance with the laws of the State in which the facility is located.

“(2) In addition to reporting each case of a notifiable infectious disease or condition at a medical facility of the Department pursuant to paragraph (1), the Secretary shall report each such case that is classified as a health-care-associated infection sentinel event to the accrediting organization of such facility.

“(3)(A) If the Secretary fails to report a case of a notifiable infectious disease or condition at a medical facility of the Department in accordance with State law pursuant to paragraph (1), the Secretary shall—

“(i) take any remedial action required under the laws of the State to correct such failure; and

“(ii) if the Secretary does not correct such failure pursuant to clause (i), pay to the State an amount equal to the amount that a medical facility not owned by the Federal Government that is located in the same State would pay as a penalty to such State for such failure.

“(B) The State may file a civil action against the Secretary in the United States district court for the district in which the medical facility is located to recover from the United States the amount described in subparagraph (A)(ii).

“(C) A civil action under subparagraph (B) may not be commenced later than two years after the cause of action accrues.

“(4)(A) In any case in which the Inspector General of the Department suspects that a director of a Veterans Integrated Service Network has failed to comply with an applicable provision of this subsection, the Inspector General shall conduct an investigation to determine whether such director failed to comply with an applicable provision of this section.

“(B) If the Inspector General determines under subparagraph (A) that a director has failed to comply with a provision of this subsection, the Secretary shall suspend such director for such period as the Secretary considers appropriate under subchapter I or subchapter II of chapter 75 of title 5, as the case may be. In addition to such suspension, the Secretary may impose such other administrative disciplinary action on the director as the Secretary considers appropriate and for which the Secretary is otherwise authorized.

“(5) The Secretary shall—

“(A) maintain records of each notifiable infectious disease or condition reported pursuant to paragraph (1); and

“(B) submit to the Committees on Veterans’ Affairs of the House of Representatives and the Senate a notification of each such notifiable infectious disease or condition.

“(6) In this subsection, the term ‘notifiable infectious disease or condition’ means any infectious disease or condition that is—

“(A) on the list of nationally notifiable diseases or conditions published by the Council of State and Territorial Epidemiologists and the Centers for Disease Control and Prevention; or

“(B) covered by a provision of law of a State that requires the reporting of infectious diseases or conditions.”.

(b) EFFECTIVE DATE.—The reporting requirement under section 7311(f) of title 38, United States Code, as added by subsection (a), shall apply with respect to a case of a notifiable infectious disease or condition diagnosed at a medical facility of the Department of Veterans Affairs on or after the date that is 60 days after the date of the enactment of this Act.

SEC. 4. PROHIBITION OF VISUAL RECORDING WITHOUT INFORMED CONSENT.

Section 7331 of title 38, United States Code, is amended—

(1) by striking “The Secretary, upon” and inserting “(a) IN GENERAL.—The Secretary, upon”; and

(2) by adding at the end the following new subsection:

“(b) VISUAL RECORDING.—(1) The Secretary shall prescribe regulations establishing procedures to ensure that, except as provided by paragraph (2), any visual recording made by the Secretary of a patient during the course of furnishing care under this title is carried out only with the full and informed consent of the patient or, in appropriate cases, a representative thereof.

“(2) The Secretary may waive the requirement for informed consent under paragraph (1) with respect to the visual recording of a patient if such recording is made—

- “(A) pursuant to a determination by a physician or psychologist that such recording is medically necessary or necessary for the safety of the patient;
 - “(B) pursuant to a warrant or order of a court of competent jurisdiction; or
 - “(C) in a public setting where a person would not have a reasonable expectation to privacy, such as a waiting room or hallway, and such recording is for general security purposes not particularized to the patient.
- “(3) In this subsection, the term ‘visual recording’ means the recording or transmission of images or video, but does not include—
- “(A) medical imaging, including such imaging produced by radiographic procedures, nuclear medicine, endoscopy, ultrasound, or other similar procedures; or
 - “(B) images, video, and other clinical information transmitted for the purposes of providing treatment through telehealth and telemedicine technologies.”.

Amend the title to read:

A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to submit to Congress semiannual reports on the cost of certain travel made by employees of the Department of Veterans Affairs, and for other purposes.

PURPOSE AND SUMMARY

H.R. 1804, the Veterans Accountability Act of 2013, was introduced by Mr. Huelskamp of Kansas on April 26, 2013. H.R. 1804, as amended, incorporates provisions of that bill as well as provisions of H.R. 1490, introduced by House Committee on Veterans’ Affairs Chairman Jeff Miller; and H.R. 1792, introduced by Oversight and Investigations Subcommittee Chairman Mike Coffman. Together, these provisions would improve Congressional oversight of VA through required domestic and foreign travel disclosures; make VA medical facilities safer for patients and staff through mandating the reporting of infectious diseases; and strengthen the privacy rights of VA patients.

BACKGROUND AND NEED FOR LEGISLATION

SECTION 2—REPORTING OF FOREIGN AND DOMESTIC EMPLOYEE TRAVEL

Currently, there is no requirement in Title 38, United States Code, for the Department of Veterans Affairs (VA) to submit information on employee travel. On August 29, 2012, the House Committee on Veterans’ Affairs requested information on foreign travel undertaken by VA employees, including the purpose, cost, and VA officials involved. That information was not delivered until January 25, 2013, and contained vague descriptions of the purpose such as “special mission,” “conference,” and “speech/presentation.” The Committee requested VA to clarify the information and to include the destination of the travel and a breakdown of costs; this information was provided by VA on July 1, 2013, and included information on VA foreign travel for the period October 1, 2009 to July 18, 2012.

Documented in this information were trips where 86 people traveled to Montreal, Canada for a week ranging from October 31, 2011 to November 9, 2011; 30 people traveled to Vancouver, Canada from February 15, 2011 to February 21, 2011; and 22 people traveled to Toronto, Canada from November 9, 2011 to November 13, 2011. Aside from large group travel, there were a number of questionable individual trips by VA employees to locations such as Les Diablerets, Switzerland; Phuket, Thailand; Vienna, Austria; and Cabo San Lucas, Mexico. It was also discovered that several em-

ployees listed as traveling for VA businesses, were actually non-VA employees and employees of other offices within the Federal government. For example, a sailor in the United States Navy was transported to Catania, Italy and then onto the U.S.S. Mesa Verde, and that same sailor was also transported to Djibouti City, Djibouti. The listed purpose of both trips was “special mission.”

Chapter 1353 of Title 31, United States Code, requires the disclosure of travel funded through gifts from non-Federal sources to the Office of Government Ethics (OGE) on a semiannual basis. The Committee reviewed VA’s disclosures to OGE for periods including 2007, 2010, 2011, and 2012. The disclosures revealed numerous trips paid for by VA affiliated academic institutions to conferences and seminars, within the United States and to foreign countries. For example, a VA employee attended a 5 day “conference” in Little Rock, Arkansas with the total cost of the trip totaling \$14,065. The trip was funded by the University of Arkansas and the VA Medical Center in Little Rock has an affiliation with the University of Arkansas, Medical School.

Section 2 H.R. 1804, As Amended, would require the VA to submit semiannual reports to Congress on foreign travel by VA employees and travel funded by non-Federal sources. The reports would include the purpose of the travel, the destination, the name and title of each employee traveling, and for travel funded by non-Federal sources, the report would include the entity or individual funding the travel.

SECTION 3—REPORTING OF INFECTIOUS DISEASES AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES

Section 3 of H.R. 1804 is derived H.R. 1792, As Amended, would require VA to report infectious diseases diagnosed at VA medical facilities in accordance with the laws of the state the facility is located. This bill was introduced in response to a number of infectious disease issues at VA facilities nationwide, including the deadly outbreak of Legionnaires’ Disease at the Pittsburgh VA Healthcare System from February 2011 to November 2012 that killed at least five veterans and sickened as many as 22.

SECTION 4—PROHIBITION OF VISUAL RECORDING WITHOUT INFORMED CONSENT

Section 4 of H.R. 1804, As Amended.

HEARINGS

On June 19, 2013, the Subcommittee on Oversight and Investigations conducted a legislative hearing on various bill introduced during the 113th Congress including H.R. 1490, H.R. 1792, and H.R. 1804. The following witnesses testified: The Honorable Jeff Miller, U.S. House of Representatives; The Honorable Tim Huelskamp, U.S. House of Representatives; Dr. Robert L. Jesse, Principal Deputy Under Secretary for Health, U.S. Department of Veterans Affairs; Ms. Jane Clare Joyner, Deputy Assistant General Counsel, U.S. Department of Veterans Affairs; Dr. Timothy F. Jones, Tennessee State Epidemiologist and President, Council of State and Territorial Epidemiologists; Mr. Nick McCormick, Legislative Associate, Iraq and Afghanistan Veterans of America; and Dr. Paul

Etkind, Senior Director of Infectious Diseases, National Association of County and City Health Officials.

SUBCOMMITTEE CONSIDERATION

On June 27, 2013, the Subcommittee on Oversight and Investigations met in an open markup session, a quorum being present, and favorably forwarded to the full Committee H.R. 1490, As Amended, H.R. 1792, As Amended, and H.R. 1804, As Amended, by voice vote.

During consideration of H.R. 1490 the following amendment was considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Mr. Coffman of Colorado.

During consideration of H.R. 1792 the following amendment was considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Mr. Coffman of Colorado.

During consideration of H.R. 1804 the following amendment was considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Mr. Huelskamp of Kansas.

COMMITTEE CONSIDERATION

On August 1, 2013, the full Committee met in an open markup session, a quorum being present, and ordered H.R. 1804, As Amended, reported favorably to the House of Representatives by voice vote. During consideration of the bill, the following amendment was considered:

An amendment in the nature of a substitute, by Mr. Huelskamp of Kansas, which contained provisions affecting VA travel reporting requirements, reporting of infectious diseases, and guidelines to ensure privacy was agreed to by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto. There were no recorded votes taken on amendments or in connection with ordering H.R. 5948, as amended, reported to the House. A motion by Ranking Member Mike Michaud of Maine to order H.R. 1804, as amended, reported favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 1804, As Amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 1804, As Amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 602 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 9, 2013.

Hon. JEFF MILLER,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1804, the Veterans Accountability Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ann E. Futrell.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1804—Veterans Accountability Act of 2013

H.R. 1804 would impose several administrative and reporting requirements on the Department of Veterans Affairs (VA). The bill would require VA to obtain informed consent of patients for potential video recordings of care furnished by the agency, unless such a recording is determined to be medically necessary. While the agency is not currently required by statute to obtain such consent, VA reports that, in compliance with the Video Voyeurism Protection Act of 2004 and the Joint Commission for Leadership in Healthcare Organizations, it already requires written consent of patients when they are videotaped for purposes other than medical necessity.

In addition, H.R. 1804 would require the VA to report diseases that occur at its medical facilities to appropriate state and local entities, in accordance with state laws. If VA failed to report the diseases, it would be required to take remedial action and potentially pay a penalty to the state. However, on June 25, 2013, VA released the directive, “Infectious Disease Reporting” (2013–008), which requires mandatory reporting on infectious diseases to state and local entities.

Since both of the requirements described above would codify VA’s policy, CBO estimates no additional cost to implement those provisions.

Finally, H.R. 1804 would require VA to submit semiannual reports to the Congress that provide detailed descriptions of certain travel by its employees. The first report would have to be completed by June 30, 2014. In total, CBO estimates that implementing H.R. 1804 would cost \$1 million to prepare reports over the 2014–2018 period, assuming the availability of appropriated funds. Enacting this bill would not affect direct spending or revenues; therefore, pay-as you go procedures do not apply.

H.R. 1804 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contacts for this estimate are Ann E. Futrell and Dwayne M. Wright. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 1804, As Amended, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 1804, As Amended.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress’ power to “provide for the common Defense and general Welfare of the United States.”

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 2—Reporting of foreign and domestic employee travel

Section 2(a) would add a new section, 518, to chapter 5 of Title 38 United States Code, that would mandate semiannual reports to the Committee on Veterans’ Affairs of the House of Representatives

and the Committee on Veterans' Affairs of the Senate of covered travel.

Section 2(b) would require VA, with respect to covered travel, to report the purpose, destination, name and title of each employee travelling, duration, total cost, and for travel funded by non-Federal sources, the identity of the person or entity funding the travel. For calculating cost, this section would require, among other things, inclusion of transportation, lodging, per diem payments, registration fees, promotional items.

Section 2(c) would require the reporting of information regardless if it would also be included in a report under Section 517 of Title 38, United States Code.

Section 2(d) would define covered travel to include foreign travel by a VA employee paid for by the Federal Government and domestic or foreign travel paid for by a person or entity other than the Federal Government.

Section 2(e) would make a clerical amendment to the table of sections at the beginning of chapter 5 of Title 38.

Section 3—Reporting of infectious diseases at Department of Veterans Affairs medical facilities

Section 3(a) would amend section 7311 of Title 38 United States Code, to require the reporting of each case of a diagnosed infectious disease or condition at VA medical facility in accordance with the laws of the State the facility is located. It would also require VA to report each case that is classified as a healthcare-associated infection sentinel event to the accrediting organization of such facility.

Section 3(b).

Section 4—Prohibition of visual recording without informed consent

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 5—AUTHORITY AND DUTIES OF THE SECRETARY

SUBCHAPTER I—GENERAL AUTHORITIES

Sec.
501. Rules and regulations.

* * * * *

518. *Semiannual reports to Congress on cost of certain travel.*

SUBCHAPTER I—GENERAL AUTHORITIES

* * * * *

§518. Semiannual reports to Congress on cost of certain travel

(a) *SEMIANNUAL REPORTS.*—Not later than June 30, 2014, and not later than 60 days after each 180-day period thereafter, the Secretary shall submit to the Committee on Veterans' Affairs of the House of Representatives and the Committee on Veterans' Affairs of the Senate a semiannual report on covered travel made during the 180-day period covered by the report.

(b) *MATTERS INCLUDED.*—Each report under subsection (a) shall include the following:

(1) With respect to each instance of covered travel made during the period covered by the report—

(A) the purpose of such travel;

(B) the destination;

(C) the name and title of each employee included on such travel;

(D) the duration of such travel;

(E) the total cost to the Department of such travel; and

(F) with respect to covered travel described in subsection

(d)(2), the identity of the person or entity that paid or reimbursed for such travel.

(2) The final costs to the Department with respect to all covered travel made during the period covered by the report, including costs relating to—

(A) transportation, including fares for travel by air, rail, bus, ferry, cruise ship, taxi, mass transit, or other mode of transportation;

(B) expenses or reimbursements relating to operating and maintaining a car, including the costs of fuel and mileage;

(C) passport and visa fees;

(D) lodging;

(E) per diem payments;

(F) baggage charges;

(G) computer rental fees;

(H) rental of halls, auditoriums, or other spaces;

(I) entertainment;

(J) contractors;

(K) registration fees; and

(L) promotional items.

(c) *DUPLICATIVE INFORMATION.*—Each report under subsection (a) shall include the information described in subsection (b) regardless of whether such information is also included in a report under section 517 of this title.

(d) *COVERED TRAVEL DEFINED.*—In this section, the term “covered travel” means travel made by an employee of the Department of Veterans Affairs, including an employee who is stationed in a foreign country, on official business to any of the following locations:

(1) If the Department or other element of the Federal Government pays for such travel, a location outside of—

(A) the several States;

(B) the District of Columbia;

- (C) a territory, commonwealth, or possession of the United States;
 - (D) Indian lands (as defined in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4))); or
 - (E) the territorial waters of the United States.
- (2) If any person or entity other than the Federal Government pays (or reimburses) for such travel, any location, regardless of whether the location is inside or outside of the United States.

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PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

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CHAPTER 73—VETERANS HEALTH ADMINISTRATION - ORGANIZATION AND FUNCTIONS

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SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

§ 7311. Quality assurance

(a) * * *

* * * * *

(f)(1) *The Secretary shall report to the appropriate entity each case of a notifiable infectious disease or condition that is diagnosed at a medical facility of the Department of Veterans Affairs in accordance with the laws of the State in which the facility is located.*

(2) *In addition to reporting each case of a notifiable infectious disease or condition at a medical facility of the Department pursuant to paragraph (1), the Secretary shall report each such case that is classified as a health-care-associated infection sentinel event to the accrediting organization of such facility.*

(3)(A) *If the Secretary fails to report a case of a notifiable infectious disease or condition at a medical facility of the Department in accordance with State law pursuant to paragraph (1), the Secretary shall—*

(i) take any remedial action required under the laws of the State to correct such failure; and

(ii) if the Secretary does not correct such failure pursuant to clause (i), pay to the State an amount equal to the amount that a medical facility not owned by the Federal Government that is located in the same State would pay as a penalty to such State for such failure.

(B) *The State may file a civil action against the Secretary in the United States district court for the district in which the medical facility is located to recover from the United States the amount described in subparagraph (A)(ii).*

(C) *A civil action under subparagraph (B) may not be commenced later than two years after the cause of action accrues.*

(4)(A) *In any case in which the Inspector General of the Department suspects that a director of a Veterans Integrated Service Net-*

work has failed to comply with an applicable provision of this subsection, the Inspector General shall conduct an investigation to determine whether such director failed to comply with an applicable provision of this section.

(B) If the Inspector General determines under subparagraph (A) that a director has failed to comply with a provision of this subsection, the Secretary shall suspend such director for such period as the Secretary considers appropriate under subchapter I or subchapter II of chapter 75 of title 5, as the case may be. In addition to such suspension, the Secretary may impose such other administrative disciplinary action on the director as the Secretary considers appropriate and for which the Secretary is otherwise authorized.

(5) The Secretary shall—

(A) maintain records of each notifiable infectious disease or condition reported pursuant to paragraph (1); and

(B) submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a notification of each such notifiable infectious disease or condition.

(6) In this subsection, the term "notifiable infectious disease or condition" means any infectious disease or condition that is—

(A) on the list of nationally notifiable diseases or conditions published by the Council of State and Territorial Epidemiologists and the Centers for Disease Control and Prevention; or

(B) covered by a provision of law of a State that requires the reporting of infectious diseases or conditions.

* * * * *

SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

§ 7331. Informed consent

[The Secretary, upon] *(a) IN GENERAL.—The Secretary, upon the recommendation of the Under Secretary for Health and pursuant to the provisions of section 7334 of this title, shall prescribe regulations establishing procedures to ensure that all medical and prosthetic research carried out and, to the maximum extent practicable, all patient care furnished under this title shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof.*

(b) VISUAL RECORDING.—(1) The Secretary shall prescribe regulations establishing procedures to ensure that, except as provided by paragraph (2), any visual recording made by the Secretary of a patient during the course of furnishing care under this title is carried out only with the full and informed consent of the patient or, in appropriate cases, a representative thereof.

(2) The Secretary may waive the requirement for informed consent under paragraph (1) with respect to the visual recording of a patient if such recording is made—

(A) pursuant to a determination by a physician or psychologist that such recording is medically necessary or necessary for the safety of the patient;

(B) pursuant to a warrant or order of a court of competent jurisdiction; or

(C) in a public setting where a person would not have a reasonable expectation to privacy, such as a waiting room or hall-

way, and such recording is for general security purposes not particularized to the patient.

(3) In this subsection, the term “visual recording” means the recording or transmission of images or video, but does not include—

(A) medical imaging, including such imaging produced by radiographic procedures, nuclear medicine, endoscopy, ultrasound, or other similar procedures; or

(B) images, video, and other clinical information transmitted for the purposes of providing treatment through telehealth and telemedicine technologies.

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