

114TH CONGRESS
1ST SESSION

H. R. 3234

To amend title 38, United States Code, to establish within the Department of Veterans Affairs an Office of Failing Medical Center Recovery, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2015

Mrs. ROBY introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to establish within the Department of Veterans Affairs an Office of Failing Medical Center Recovery, 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.**

4 This Act may be cited as the “Failing VA Medical
5 Center Recovery Act”.

6 **SEC. 2. ESTABLISHMENT OF AN OFFICE OF FAILING MED-**
7 **ICAL CENTER RECOVERY.**

8 (a) ESTABLISHMENT.—

1 (1) IN GENERAL.—Chapter 3 of title 38, United
2 States Code, is amended by adding at the end the
3 following new section:

4 **“§ 323. Office of Failing Medical Center Recovery**

5 “(a) ESTABLISHMENT.—(1) There is in the Depart-
6 ment an Office of Failing Medical Center Recovery (in this
7 section referred to as the ‘Office’). The head of the Office
8 is the Under Secretary for Failing Medical Center Recov-
9 ery.

10 “(2) The purpose of the Office is to carry out the
11 managerial and day-to-day operational control of each
12 medical center of the Department that the Secretary cer-
13 tifies as a failing medical center under subsection (b)(2).

14 “(b) DETERMINATION OF FAILING MEDICAL CEN-
15 TER.—(1) Not later than 15 days after the end of each
16 fiscal quarter, the Secretary shall publish in the Federal
17 Register and on a publically available, searchable Internet
18 website of the Department a compilation of key health
19 metrics for each medical center of the Department.

20 “(2) On a semiannual basis, the Secretary shall cer-
21 tify that each medical center of the Department that is
22 ranked as ‘failing’ under the key health metrics is a failing
23 medical center and is subject to the managerial and day-
24 to-day operational control by the Office pursuant to this
25 section.

1 “(3) The Secretary shall revoke the certification of
2 a medical center of the Department as a failing medical
3 center under paragraph (2) if the medical center achieves
4 a ranking of ‘satisfactory’ or better under the key health
5 metrics for three consecutive fiscal quarters.

6 “(4) The Secretary shall submit to the President and
7 Congress each certification made under paragraph (2).

8 “(5) On a quarterly basis, the Secretary shall submit
9 to Congress a report on the Office, including the actions
10 taken by the Under Secretary with respect to covered fail-
11 ing medical centers.

12 “(c) FUNCTIONS.—(1)(A) The Secretary shall trans-
13 fer each covered failing medical center from the direct con-
14 trol of the relevant Veterans Integrated Service Network
15 to the direct control of the Under Secretary.

16 “(B) The Under Secretary, acting through the Office,
17 shall assume responsibility for and carry out the manage-
18 rial and day-to-day operational control of each covered
19 failing medical center.

20 “(C) In carrying out subparagraph (B), the Under
21 Secretary shall—

22 “(i) have the duties, responsibilities, and au-
23 thority for the covered failing medical center that
24 the director of the failing medical center had as of

1 the day before the date of the certification under
2 subsection (b)(2);

3 “(ii) operate the covered failing medical center
4 independently from the relevant Veterans Integrated
5 Service Network; and

6 “(iii) retain the use of all resources and services
7 that would otherwise be made available to the cov-
8 ered failing medical center by the Veterans Inte-
9 grated Service Network.

10 “(2)(A) Upon a certification of the Secretary under
11 subsection (b)(2) with respect to a covered failing medical
12 center, the Under Secretary shall deploy a rapid deploy-
13 ment team to the covered failing medical center to carry
14 out this subsection to ensure that the covered failing med-
15 ical center achieves satisfactory performance as quickly as
16 practicable.

17 “(B) Each rapid deployment team described in sub-
18 paragraph (A) shall report directly to the Under Secretary
19 and consist of personnel with experience in the following:

20 “(i) Business administration.

21 “(ii) Human resources.

22 “(iii) Congressional relations.

23 “(iv) Acute medical care.

24 “(v) Non-Department health care.

1 “(vi) Other professional experience the Under
2 Secretary determines appropriate.

3 “(3)(A) The Under Secretary shall have the authority
4 to carry out adverse actions, including transfers or re-
5 assignments, pursuant to this title or title 5 that are appli-
6 cable to any employee of a covered failing medical center,
7 including the director and senior executives.

8 “(B) The Under Secretary may deem an employee
9 of a covered failing medical center who is not otherwise
10 covered by section 713 of this title to be an individual cov-
11 ered by such section for purposes of removing such indi-
12 vidual from the civil service (as defined in section 2101
13 of title 5).

14 “(4)(A) The Under Secretary may hire individuals as
15 employees of the Veterans Health Administration at cov-
16 ered failing medical centers in positions that the Under
17 Secretary determines are essential to improving patient
18 care.

19 “(B) Notwithstanding any other provision of law, in
20 carrying out subparagraph (A), the Under Secretary
21 may—

22 “(i) hire employees using the direct-hire author-
23 ity under section 3304(a)(3) of title 5; and

24 “(ii) pay such employees at a prevailing rate
25 that is 125 percent of the rate for such position.

1 “(d) ADMINISTRATIVE MATTERS.—(1) The Under
2 Secretary shall ensure that the Office consists of the fol-
3 lowing personnel, including personnel of the rapid deploy-
4 ment teams under subsection (c)(2), in a number the
5 Under Secretary determines appropriate:

6 “(A) Senior professional staff who have experi-
7 ence—

8 “(i) in the operational departments of
9 medical centers of the Department; and

10 “(ii) necessary to effectively run a medical
11 center.

12 “(B) Support staff.

13 “(2)(A) Notwithstanding any other provision of law,
14 in carrying out paragraph (1), the Under Secretary may—

15 “(i) hire employees using the direct-hire
16 authority under section 3304(a)(3) of title 5;
17 and

18 “(ii) pay such employees at a prevailing
19 rate that is 125 percent of the rate for such po-
20 sition.

21 “(B) The Secretary shall ensure that employees of
22 the Department who serve two years or more in the Office
23 receive preferential treatment for promotion and advance-
24 ment within the Department.

1 “(e) CONTRACTS.—(1) The Under Secretary may use
2 simplified procedures to award contracts for goods and
3 services that the Under Secretary determines essential to
4 improving patient care in covered failing medical centers.

5 “(2)(A) The Secretary shall include in the quarterly
6 publications under subsection (b)(1) the amounts de-
7 scribed in subparagraph (B), listed by specialty area.

8 “(B) The amounts described in this subparagraph
9 are the amounts that the Secretary—

10 “(i) is obligated to pay to non-Department fa-
11 cilities (as defined in section 1701 of this title) that
12 provide care to veterans under a covered failing
13 medical center pursuant to a contract entered into
14 by the Secretary; and

15 “(ii) has not paid by the date that is 90 days
16 after the date required by chapter 39 of title 31.

17 “(f) INVESTIGATIONS AND WHISTLEBLOWER PRO-
18 TECTIONS.—(1) The Inspector General of the Department
19 shall prioritize investigations relating to covered failing
20 medical centers.

21 “(2) The Office of Accountability Review shall
22 prioritize investigations of whistleblower retaliation relat-
23 ing to covered failing medical centers.

24 “(g) DEFINITIONS.—In this section:

1 “(1) The term ‘covered failing medical center’
2 means a medical center of the Department that the
3 Secretary certifies as a failing medical center pursu-
4 ant to paragraph (2) of such subsection (b) and has
5 not revoked such certification under paragraph (3)
6 of such subsection.

7 “(2) The term ‘key health metrics’ means the
8 following:

9 “(A) The Strategic Analytics Improvement
10 and Learning (commonly referred to as ‘SAIL’)
11 data used by the Department (or such suc-
12 cessor data metric).

13 “(B) A ranking for each medical center of
14 the Department based on the total data de-
15 scribed in subparagraph (A) for the specific
16 medical center whereby—

17 “(i) medical centers in the 90th per-
18 centile are rated as ‘excellent’;

19 “(ii) medical centers in the 30th to
20 89th percentiles are rated as ‘satisfactory’;

21 “(iii) medical centers in the 4th to
22 29th percentiles are rated as ‘poor’; and

23 “(iv) medical centers in the 3rd per-
24 centile and below are rated as ‘failing’.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions at the beginning of chapter 3 of such title is
3 amended by adding after the item relating to section
4 322 the following new item:

“323. Office of Failing Medical Center Recovery.”.

5 (3) INITIAL KEY HEALTH METRICS PUBLICA-
6 TION.—The Secretary shall publish the initial key
7 health metrics under section 323(b)(1) of title 38,
8 United States Code, as added by paragraph (1), by
9 not later than 90 days after the date of the enact-
10 ment of this Act.

11 (4) INITIAL CERTIFICATIONS OF A FAILING
12 MEDICAL CENTER.—The Secretary shall make the
13 initial certifications under section 323(b)(2) of title
14 38, United States Code, as added by paragraph (1),
15 by not later than 90 days after the date of the en-
16 actment of this Act. Such certifications shall cover
17 not fewer than two and not more than seven medical
18 centers of the Department of Veterans Affairs.

19 (b) UNDER SECRETARY.—

20 (1) IN GENERAL.—Chapter 3 of title 38, United
21 States Code, is further amended by inserting after
22 section 305 the following new section:

1 **“§ 305A. Under Secretary for Failing Medical Center**
 2 **Recovery**

3 “(a)(1) There is in the Department an Under Sec-
 4 retary for Failing Medical Center Recovery (in this section
 5 referred to as the ‘Under Secretary’), who is appointed
 6 by the President, by and with the advice and consent of
 7 the Senate.

8 “(2) The Under Secretary shall be appointed without
 9 regard to political affiliation or activity and solely—

10 “(A) on the basis of demonstrated ability in the
 11 medical profession, in health-care administration and
 12 policy formulation, in health-care fiscal management,
 13 or in health-care operations; and

14 “(B) on the basis of substantial operational ex-
 15 perience in connection with the programs of the Vet-
 16 erans Health Administration or programs of similar
 17 content and scope.

18 “(b) The Under Secretary is the head of, and is di-
 19 rectly responsible to the Secretary for the operation of,
 20 the Office of Failing Medical Center Recovery.”.

21 (2) CLERICAL AMENDMENT.—The table of sec-
 22 tions at the beginning of chapter 3 of such title is
 23 further amended by inserting after the item relating
 24 to section 305 the following new item:

“305A. Under Secretary for Failing Medical Center Recovery.”.

1 (c) INCLUSION OF OFFICE IN EDUCATIONAL ASSIST-
2 ANCE PROGRAM.—Chapter 76 of title 38, United States
3 Code, is amended—

4 (1) by striking “Veterans Health Administra-
5 tion” each place it appears (other than section
6 7622(b)(1)) and inserting “Veterans Health Admin-
7 istration or the Office of Failing Medical Center Re-
8 covery”; and

9 (2) by striking “section 7401 of this title” each
10 place it appears and inserting “section 7401 or sec-
11 tion 323(d) of this title”.

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