

114TH CONGRESS  
2D SESSION

# S. 3401

To amend title 38, United States Code, to consolidate and expand the provision of health care to veterans through non-Department of Veterans Affairs health care providers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2016

Mr. CRAPO introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to consolidate and expand the provision of health care to veterans through non-Department of Veterans Affairs health care providers, 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 “Improving Veterans  
5       Care in the Community Act of 2016”.

6       **SEC. 2. SENSE OF CONGRESS.**

7       It is the sense of Congress that—

1           (1) the Department of Veterans Affairs should  
2 remain the primary means by which eligible veterans  
3 access health care;

4           (2) the Veterans Health Administration needs a  
5 simple tool by which it can send veterans into the  
6 community to receive health care when appropriate;  
7 and

8           (3) it is appropriate to send veterans into the  
9 community for health care when—

10           (A) it is in the best medical interest of the  
11 veteran;

12           (B) the veteran does not have access to a  
13 medical facility of the Department without an  
14 undue travel burden;

15           (C) the nearest medical facility of the De-  
16 partment does not provide the service the vet-  
17 eran needs and the veteran faces an undue  
18 travel burden to receive the service from an-  
19 other medical facility of the Department; or

20           (D) the Secretary of Veterans Affairs de-  
21 termines that it is appropriate.

1 **SEC. 3. ESTABLISHMENT OF CARE IN THE COMMUNITY**  
 2 **PROGRAM OF DEPARTMENT OF VETERANS**  
 3 **AFFAIRS TO CONSOLIDATE AND EXPAND THE**  
 4 **PROVISION OF HEALTH CARE TO VETERANS**  
 5 **THROUGH NON-DEPARTMENT OF VETERANS**  
 6 **AFFAIRS PROVIDERS.**

7 (a) ESTABLISHMENT OF PROGRAM.—

8 (1) IN GENERAL.—Subchapter I of chapter 17  
 9 of title 38, United States Code, is amended by in-  
 10 sserting after section 1703 the following new section:

11 **“§ 1703A. Care in the Community Program**

12 “(a) IN GENERAL.—(1) There is established a con-  
 13 solidated program to furnish care and services specified  
 14 in subsection (e) to veterans through individuals and enti-  
 15 ties specified in subsection (c), including through the use  
 16 of contracts or agreements entered into under this section  
 17 to furnish such care and services. Such program may be  
 18 referred to as the ‘Care in the Community Program’.

19 “(b) REQUIREMENT TO RECEIVE CARE.—To receive  
 20 care or services under this section, a veteran must be en-  
 21 rolled in the patient enrollment system of the Department  
 22 established and operated under section 1705 of this title.

23 “(c) INDIVIDUALS AND ENTITIES SPECIFIED.—Indi-  
 24 viduals and entities specified in this paragraph are the fol-  
 25 lowing:

1           “(1) Any health care provider that is partici-  
2           pating in the Medicare program under title XVIII of  
3           the Social Security Act (42 U.S.C. 1395 et seq.) or  
4           the Medicaid program under title XIX of such Act  
5           (42 U.S.C. 1396 et seq.), including any physician  
6           furnishing services under such a program.

7           “(2) The Department of Defense, including  
8           pursuant to agreements entered into under section  
9           8111 of this title.

10          “(3) The Indian Health Service.

11          “(4) Institutions affiliated with the Department  
12          under section 7302 of this title.

13          “(5) Providers of care under the Alaska Native  
14          Health Care System.

15          “(6) Federally-qualified health centers (as de-  
16          fined in section 1905(l)(2)(B) of the Social Security  
17          Act (42 U.S.C. 1396d(l)(2)(B))).

18          “(7) Any individual or entity with which the  
19          Secretary has entered into a contract or agreement  
20          under section 8153 of this title.

21          “(8) Any other individual or entity that meets  
22          criteria established by the Secretary for purposes of  
23          this section.

1 “(d) ELIGIBILITY FOR CERTAIN SERVICES.—(1)(A)  
2 A veteran is eligible for hospital care and medical services  
3 under subsection (e)(9) if—

4 “(i) the veteran does not live within 40 miles of  
5 a medical facility of the Department, including a  
6 community-based outpatient clinic;

7 “(ii) the veteran requires care or services that  
8 are not available at any medical facility of the De-  
9 partment, including a community-based outpatient  
10 clinic, within 40 miles from the residence of the vet-  
11 eran;

12 “(iii) the veteran resides—

13 “(I) in a State without a medical facility of  
14 the Department that provides—

15 “(aa) hospital care;

16 “(bb) emergency medical services; and

17 “(cc) surgical care rated by the Sec-  
18 retary as having a surgical complexity of  
19 standard; and

20 “(II) more than 20 miles from a medical  
21 facility of the Department described in sub-  
22 clause (I);

23 “(iv) the veteran—

24 “(I) resides in a location, other than a lo-  
25 cation in Guam, American Samoa, or the Re-

1 public of the Philippines, that is within 40 miles  
2 of a medical facility of the Department, includ-  
3 ing a community-based outpatient clinic; and

4 “(II)(aa) is required to travel by air, boat,  
5 or ferry to reach each medical facility described  
6 in subclause (I) that is within 40 miles of the  
7 residence of the veteran; or

8 “(bb) faces an unusual or excessive burden  
9 in traveling to such a medical facility of the De-  
10 partment based on—

11 “(AA) geographical challenges;

12 “(BB) environmental factors, such as  
13 roads that are not accessible to the general  
14 public, traffic, or hazardous weather;

15 “(CC) a medical condition that im-  
16 pacts the ability to travel; or

17 “(DD) other factors, as determined by  
18 the Secretary;

19 “(v) the veteran would be required to wait  
20 longer than a period specified by the Secretary to re-  
21 ceive hospital care or medical services from the De-  
22 partment; or

23 “(vi) a health care provider of the Department  
24 determines that it is in the medical interest of the

1 veteran to access hospital care or medical services  
2 outside of the Department.

3 “(B) Any distance specified under subparagraph (A)  
4 shall be calculated based on distance traveled.

5 “(C) The period specified by the Secretary under sub-  
6 paragraph (A)(v) shall be 30 days unless the Secretary—

7 “(i) prescribes regulations specifying a different  
8 period, which may include a different period for each  
9 area of specialty care; and

10 “(ii) publishes such different period or periods  
11 in the Federal Register and on an Internet Web site  
12 of the Department.

13 “(D) Veterans who meet eligibility criteria set forth  
14 under the pilot program under section 403 of the Vet-  
15 erans’ Mental Health and Other Care Improvements Act  
16 of 2008 (Public Law 110–387; 38 U.S.C. 1703 note)  
17 (commonly known as ‘Project Arch’), as in effect on the  
18 day before the termination of such program, are eligible  
19 for care and services under subsection (e)(9).

20 “(2)(A) A veteran is eligible for reimbursement for  
21 emergency treatment furnished under subsection (e)(15)  
22 at a non-Department facility—

23 “(i) if the veteran is an active Department  
24 health-care participant who is personally liable for  
25 emergency treatment furnished the veteran in a non-

1 Department facility, for any emergency treatment  
2 furnished such veteran; or

3 “(ii) if the treatment was for—

4 “(I) an adjudicated service-connected dis-  
5 ability;

6 “(II) a non-service-connected disability as-  
7 sociated with and held to be aggravating a serv-  
8 ice-connected disability;

9 “(III) any disability of a veteran if the vet-  
10 eran has a total disability permanent in nature  
11 from a service-connected disability; or

12 “(IV) any illness, injury, or dental condi-  
13 tion of a veteran who—

14 “(aa) is a participant in a vocational  
15 rehabilitation program (as defined in sec-  
16 tion 3101(9) of this title); and

17 “(bb) is medically determined to have  
18 been in need of care or treatment to make  
19 possible the veteran’s entrance into a  
20 course of training, or prevent interruption  
21 of a course of training, or hasten the re-  
22 turn to a course of training which was in-  
23 terrupted because of such illness, injury, or  
24 dental condition.

1       “(B) A veteran is an active Department health-care  
2 participant if the veteran received care under this chapter  
3 within the 24-month period preceding the furnishing of  
4 such emergency treatment.

5       “(C) A veteran is personally liable for emergency  
6 treatment furnished the veteran in a non-Department fa-  
7 cility if the veteran—

8           “(i) is financially liable to the provider of emer-  
9 gency treatment for that treatment;

10          “(ii) has no entitlement to care or services  
11 under a health-plan contract (determined, in the  
12 case of a health-plan contract as defined in sub-  
13 section (j)(2)(B) or (j)(2)(C), without regard to any  
14 requirement or limitation relating to eligibility for  
15 care or services from any department or agency of  
16 the United States); and

17          “(iii) has no other contractual or legal recourse  
18 against a third party that would, in whole, extin-  
19 guish such liability to the provider.

20       “(e) CARE AND SERVICES.—Care and services speci-  
21 fied in this subsection are the following:

22           “(1) Hospital care or medical services furnished  
23 to a veteran for the treatment of—

24           “(A) a service-connected disability;

1           “(B) a disability for which a veteran was  
2 discharged or released from the active military,  
3 naval, or air service; or

4           “(C) a disability of a veteran who has a  
5 total disability permanent in nature from a  
6 service-connected disability.

7           “(2) Medical services for the treatment of any  
8 disability of—

9           “(A) a veteran described in section  
10 1710(a)(1)(B) of this title;

11           “(B) a veteran who—

12           “(i) has been furnished hospital care,  
13 nursing home care, domiciliary care, or  
14 medical services; and

15           “(ii) requires medical services to com-  
16 plete treatment incident to such care or  
17 services; or

18           “(C) a veteran described in section  
19 1710(a)(2)(E) of this title, or a veteran who is  
20 in receipt of increased pension, or additional  
21 compensation or allowances based on the need  
22 of regular aid and attendance or by reason of  
23 being permanently housebound (or who, but for  
24 the receipt of retired pay, would be in receipt  
25 of such pension, compensation, or allowance), if

1 the Secretary has determined, based on an ex-  
2 amination by a physician employed by the De-  
3 partment (or, in areas where no such physician  
4 is available, by a physician carrying out such  
5 function under a contract or fee arrangement),  
6 that the medical condition of such veteran pre-  
7 cludes appropriate treatment in Department fa-  
8 cilities.

9 “(3) Hospital care or medical services in a non-  
10 Department facility for the treatment of medical  
11 emergencies which pose a serious threat to the life  
12 or health of a veteran receiving medical services in  
13 a Department facility or nursing home care under  
14 section 1720 of this title until such time following  
15 the furnishing of care in the non-Department facility  
16 as the veteran can be safely transferred to a Depart-  
17 ment facility.

18 “(4) Hospital care for women veterans.

19 “(5) Hospital care, or medical services that will  
20 obviate the need for hospital admission, for veterans  
21 in a State (other than the Commonwealth of Puerto  
22 Rico) not contiguous to the contiguous States, ex-  
23 cept that the annually determined hospital patient  
24 load and incidence of the furnishing of medical serv-  
25 ices to veterans hospitalized or treated at the ex-

1       pense of the Department in Government and non-  
2       Department facilities in each such noncontiguous  
3       State shall be consistent with the patient load or in-  
4       cidence of the furnishing of medical services for vet-  
5       erans hospitalized or treated by the Department  
6       within the 48 contiguous States and the Common-  
7       wealth of Puerto Rico.

8               “(6) Diagnostic services necessary for deter-  
9       mination of eligibility for, or of the appropriate  
10      course of treatment in connection with, furnishing  
11      medical services at independent Department out-  
12      patient clinics to obviate the need for hospital admis-  
13      sion.

14              “(7) Outpatient dental services and treatment,  
15      and related dental appliances, for a veteran de-  
16      scribed in section 1712(a)(1)(F) of this title.

17              “(8) Diagnostic services (on an inpatient or  
18      outpatient basis) for observation or examination of a  
19      person to determine eligibility for a benefit or service  
20      under laws administered by the Secretary.

21              “(9) Hospital care and medical services for vet-  
22      erans described in subsection (d)(1).

23              “(10) Hospital care and medical services, in-  
24      cluding counseling and related mental health services  
25      under section 1712A, for veterans meeting eligibility

1 criteria for such care and services under the Patient-  
2 Centered Community Care program of the Depart-  
3 ment, as in effect on the day before the effective  
4 date under section 3(j)(2) of the ‘Improving Vet-  
5 erans Care in the Community Act of 2016’.

6 “(11) Hospital care and medical services for  
7 veterans at medical facilities of the Indian Health  
8 Service or under the Tribal Health Program pursu-  
9 ant to sharing agreements entered into between the  
10 Department and the Indian Health Service, Indian  
11 tribes, or tribal organizations.

12 “(12) Hospital care and medical services for  
13 veterans at medical facilities of the Department of  
14 Defense pursuant to sharing agreements entered  
15 into between the Department of Veterans Affairs  
16 and the Department of Defense.

17 “(13) Hospital care and medical services for  
18 veterans at other non-Department facilities pursuant  
19 to sharing agreements entered into between the De-  
20 partment of Veterans Affairs and such facilities.

21 “(14) Hospital care and medical services for  
22 veterans at institutions affiliated with the Depart-  
23 ment under section 7302 of this title pursuant to  
24 contracts entered into with such institutions.

1           “(15) Reimbursement for payment made by vet-  
2           erans described in subsection (d)(2), or on behalf of  
3           such veterans, for emergency treatment furnished  
4           such veterans in non-Department facilities.

5           “(f) REFERRAL FOR SERVICES.—(1) Except as pro-  
6           vided in paragraph (2), a veteran is required to obtain  
7           a referral from a primary care provider of the Department  
8           to receive specialty care services under this section. Any  
9           such referral shall be reviewed by the director of the med-  
10          ical facility at which the primary care physician is located.

11          “(2)(A) A veteran described in any of clauses (i)  
12          through (v) of subsection (d)(1)(A) is not required to ob-  
13          tain a referral for specialty care services furnished under  
14          subsection (e)(9).

15          “(B) In the case of a veteran described in subpara-  
16          graph (A), the Secretary, through the Non-VA Care Co-  
17          ordination Program of the Department, shall notify the  
18          primary care provider of the veteran of the specialty care  
19          appointment and ensure that the primary care provider  
20          receives materials from the specialty care provider nec-  
21          essary to update the medical record of the veteran as ap-  
22          propriate.

23          “(g) PAYMENT RATES.—(1) Subject to paragraph  
24          (2), the Secretary shall establish uniform rates for pay-

1 ment or reimbursement for care and services under this  
2 section.

3 “(2) In entering into contracts or agreements under  
4 this section with individuals and entities specified in sub-  
5 section (c), the Secretary shall—

6 “(A) negotiate rates for the furnishing of care  
7 and services under this section; and

8 “(B) reimburse the individual or entity for such  
9 care and services at the rates negotiated pursuant to  
10 subparagraph (A) as provided in such contract or  
11 agreement.

12 “(3)(A) Except as provided in subparagraph (B),  
13 rates negotiated under paragraph (2)(A) shall not be more  
14 than the rates paid by the United States to a provider  
15 of services (as defined in section 1861(u) of the Social Se-  
16 curity Act (42 U.S.C. 1395x(u))) or a supplier (as defined  
17 in section 1861(d) of such Act (42 U.S.C. 1395x(d)))  
18 under the Medicare program under title XVIII of the So-  
19 cial Security Act (42 U.S.C. 1395 et seq.) for the same  
20 care or services.

21 “(B)(i) The Secretary may negotiate a rate that is  
22 more than the rate paid by the United States as described  
23 in subparagraph (A) with respect to the furnishing of care  
24 or services under this section to a veteran who resides in  
25 a highly rural area.

1       “(ii) With respect to furnishing care or services under  
2 this section in Alaska, the Alaska Fee Schedule of the De-  
3 partment of Veterans Affairs shall be followed, except for  
4 when another payment agreement, including a contract or  
5 provider agreement, is in place.

6       “(iii) With respect to furnishing care or services  
7 under this section in a State with an All-Payer Model  
8 Agreement under section 1814(b)(3) of the Social Security  
9 Act (42 U.S.C. 1395f(b)(3)) that became effective on Jan-  
10 uary 1, 2014, the Medicare payment rates under subpara-  
11 graph (A) shall be calculated based on the payment rates  
12 under such agreement.

13       “(iv) In this subparagraph, the term ‘highly rural  
14 area’ means an area located in a county that has fewer  
15 than seven individuals residing in that county per square  
16 mile.

17       “(h) ADMINISTRATION.—(1) Except as provided in  
18 paragraph (2), the Secretary shall be responsible for ad-  
19 ministering the Care in the Community Program through  
20 the Non-VA Care Coordination Program of the Depart-  
21 ment.

22       “(2) The Non-VA Care Coordination Program,  
23 through each medical center of the Department, shall be  
24 responsible for handling the day-to-day administration of  
25 the Care in the Community Program, including finding

1 providers, scheduling appointments, paying providers, and  
2 disseminating information to providers.

3 “(i) OUTREACH.—The Non-VA Care Coordination  
4 Program, through each medical center of the Department,  
5 shall be responsible for conducting outreach to health care  
6 providers and veterans located in the area covered by the  
7 medical center regarding care and services available under  
8 the Care in the Community Program.

9 “(j) DEFINITIONS.—In this section:

10 “(1) The term ‘emergency treatment’ means  
11 medical care or services furnished, in the judgment  
12 of the Secretary—

13 “(A) when Department or other Federal  
14 facilities are not feasibly available and an at-  
15 tempt to use them beforehand would not be rea-  
16 sonable;

17 “(B) when such care or services are ren-  
18 dered in a medical emergency of such nature  
19 that a prudent layperson reasonably expects  
20 that delay in seeking immediate medical atten-  
21 tion would be hazardous to life or health; and

22 “(C) until—

23 “(i) such time as the veteran can be  
24 transferred safely to a Department facility

1 or other Federal facility and such facility  
2 is capable of accepting such transfer; or

3 “(ii) such time as a Department facil-  
4 ity or other Federal facility accepts such  
5 transfer if—

6 “(I) at the time the veteran could  
7 have been transferred safely to a De-  
8 partment facility or other Federal fa-  
9 cility, no Department facility or other  
10 Federal facility agreed to accept such  
11 transfer; and

12 “(II) the non-Department facility  
13 in which such medical care or services  
14 was furnished made and documented  
15 reasonable attempts to transfer the  
16 veteran to a Department facility or  
17 other Federal facility.

18 “(2) The term ‘health-plan contract’ includes  
19 any of the following:

20 “(A) An insurance policy or contract, med-  
21 ical or hospital service agreement, membership  
22 or subscription contract, or similar arrangement  
23 under which health services for individuals are  
24 provided or the expenses of such services are  
25 paid.

1           “(B) An insurance program described in  
2           section 1811 of the Social Security Act (42  
3           U.S.C. 1395e) or established by section 1831 of  
4           that Act (42 U.S.C. 1395j).

5           “(C) A State plan for medical assistance  
6           approved under title XIX of such Act (42  
7           U.S.C. 1396 et seq.).

8           “(D) A workers’ compensation law or plan  
9           described in section 1729(a)(2)(A) of this title.

10          “(3) The term ‘third party’ means any of the  
11         following:

12                 “(A) A Federal entity.

13                 “(B) A State or political subdivision of a  
14                 State.

15                 “(C) An employer or an employer’s insur-  
16                 ance carrier.

17                 “(D) An automobile accident reparations  
18                 insurance carrier.

19                 “(E) A person or entity obligated to pro-  
20                 vide, or to pay the expenses of, health services  
21                 under a health-plan contract.”.

22          (2) CLERICAL AMENDMENT.—The table of sec-  
23         tions at the beginning of chapter 17 of such title is  
24         amended by inserting after the item relating to sec-  
25         tion 1703 the following new item:

“1703A. Care in the Community Program.”.

1 (b) IMPLEMENTATION.—

2 (1) INITIAL IMPLEMENTATION.—

3 (A) IN GENERAL.—Except as provided in  
4 subparagraph (B), during the one-year period  
5 beginning on the effective date specified in sub-  
6 section (j)(1), the Secretary of Veterans Affairs  
7 shall implement the Care in the Community  
8 Program under section 1703A of title 38,  
9 United States Code, as added by subsection (a),  
10 by prioritizing the use of such Program in areas  
11 where there are medical facilities of the Depart-  
12 ment that are experiencing issues with quality  
13 of care or lack of capacity.

14 (B) EXCEPTION FOR REIMBURSEMENT  
15 FOR EMERGENCY CARE.—Reimbursement for  
16 payment made by veterans, or on behalf of such  
17 veterans, for emergency treatment furnished  
18 such veterans in non-Department facilities  
19 under section 1703A(e)(15) of such title, as so  
20 added, shall be implemented in all areas on and  
21 after the effective date specified in subsection  
22 (j)(1).

23 (2) FULL IMPLEMENTATION.—

24 (A) IN GENERAL.—On and after the end of  
25 the one-year period described in paragraph

1 (1)(A), the Secretary shall implement the Care  
2 in the Community Program under section  
3 1703A of such title, as so added, in all areas.

4 (B) REPORT.—If the Secretary is unable  
5 to implement the Care in the Community Pro-  
6 gram under section 1703A of such title, as so  
7 added, in all areas as of the date that is two  
8 years after the date of the enactment of this  
9 Act, the Secretary shall submit to Congress a  
10 report on why the Secretary is unable to imple-  
11 ment such program in all areas.

12 (c) FUNDING.—Amounts required to carry out the  
13 Care in the Community Program under section 1703A of  
14 title 38, United States Code, as added by subsection (a),  
15 shall be derived from the Medical Services account of the  
16 Department of Veterans Affairs or the Veterans Choice  
17 Fund under section 802 of the Veterans Access, Choice,  
18 and Accountability Act of 2014 (Public Law 113–146; 38  
19 U.S.C. 1701 note), as amended by section 4 of this Act.

20 (d) TREATMENT OF OTHER PROGRAMS, CONTRACTS,  
21 AND AGREEMENTS.—

22 (1) IN GENERAL.—Any contract, sharing agree-  
23 ment, or other agreement entered into under any  
24 provision of law that authorizes individuals eligible  
25 for health care from the Department of Veterans Af-

1       fairs to receive such care at facilities that are not fa-  
2       cilities of the Department of Veterans Affairs shall  
3       be administered under the Care in the Community  
4       Program under section 1703A of title 38, United  
5       States Code, as added by subsection (a), on and  
6       after the effective date specified in subsection (j)(2).

7           (2) TREATMENT OF PATIENT-CENTERED COM-  
8       MUNITY CARE PROGRAM.—On and after the effective  
9       date specified in subsection (j)(2), the Secretary of  
10      Veterans Affairs may not carry out the Patient-Cen-  
11      tered Community Care program of the Department  
12      of Veterans Affairs (commonly known as “PC3”)  
13      and shall ensure that beneficiaries under such pro-  
14      gram are able to receive care under the Care in the  
15      Community Program under section 1703A of title  
16      38, United States Code, as added by subsection (a).

17      (e) PATIENT ADVOCACY.—Section 7309A of title 38,  
18      United States Code, is amended—

19           (1) by redesignating subsections (e) and (f) as  
20      subsections (f) and (g), respectively;

21           (2) by inserting after subsection (d) the fol-  
22      lowing new subsection (e):

23      “(e) EDUCATION ON NON-DEPARTMENT CARE.—The  
24      Director shall develop and administer a program of edu-  
25      cation on the Care in the Community Program under sec-

1 tion 1703A of this title that ensures veterans under-  
2 stand—

3 “(1) how the Care in the Community Program  
4 works;

5 “(2) how veterans become eligible for the Care  
6 in the Community Program; and

7 “(3) all issues regarding payment for care  
8 under the Care in the Community Program, includ-  
9 ing when the Department is the primary payer and  
10 when the Department is not the primary payer and  
11 the veteran may have to pay out of pocket.”.

12 (f) EXTENSION OF EXISTING PROGRAM.—Subsection  
13 (p) of section 101 of the Veterans Access, Choice, and Ac-  
14 countability Act of 2014 (Public Law 113–146; 38 U.S.C.  
15 1701 note) is amended to read as follows:

16 “(p) AUTHORITY TO FURNISH CARE AND SERV-  
17 ICES.—The Secretary may not use the authority under  
18 this section to furnish care and services after the date on  
19 which the Secretary submits to Congress the certification  
20 described in section 3(j)(2) of the Improving Veterans  
21 Care in the Community Act of 2016.”.

22 (g) REPORT ON ADMINISTRATORS OF CHOICE PRO-  
23 GRAM.—

24 (1) IN GENERAL.—Not later than 180 days  
25 after the date of the enactment of this Act, the

1 Comptroller General of the United States shall sub-  
2 mit to Congress a report on administrators used by  
3 the Department of Veterans Affairs to administer  
4 section 101 of the Veterans Access, Choice, and Ac-  
5 countability Act of 2014 (Public Law 113–146; 38  
6 U.S.C. 1701 note).

7 (2) ELEMENTS.—The report required by para-  
8 graph (1) shall include the following:

9 (A) An assessment of the performance of  
10 administrators, including—

11 (i) an examination of the ability of ad-  
12 ministrators to schedule appointments, re-  
13 imburse providers in a timely manner, and  
14 meet the performance standards estab-  
15 lished by their contract with the Depart-  
16 ment of Veterans Affairs; and

17 (ii) an assessment of the satisfaction  
18 of veterans with the work of administra-  
19 tors.

20 (B) An assessment of the overlap of the  
21 work of administrators with the work of em-  
22 ployees of the Department, especially employees  
23 at medical centers and community-based out-  
24 patient clinics and employees of the Non-VA  
25 Care Coordination Program.

1           (C) An assessment of the resources needed  
2           by the Department to function without adminis-  
3           trators in implementing the Care in the Com-  
4           munity Program under section 1703A of title  
5           38, United States Code, as added by subsection  
6           (a).

7           (h) REPEAL OF SUPERSEDED AUTHORITY FOR CON-  
8           TRACTS FOR CARE IN NON-DEPARTMENT FACILITIES.—

9           (1) IN GENERAL.—Section 1703 of title 38,  
10          United States Code, is repealed.

11          (2) CONFORMING AMENDMENTS.—

12           (A) DENTAL CARE.—Section 1712(a) of  
13          such title is amended—

14           (i) in paragraph (3), by striking  
15           “under clause (1), (2), or (5) of section  
16           1703(a) of this title” and inserting “under  
17           section 1703A of this title”; and

18           (ii) in paragraph (4)(A), in the first  
19           sentence, by striking “section 1703 of this  
20           title” each place it appears and inserting  
21           “section 1703A of this title”.

22           (B) READJUSTMENT COUNSELING.—Sec-  
23          tion 1712A(e)(1) of such title is amended by  
24          striking “sections 1703(a)(2) and

1 1710(a)(1)(B)” and inserting “sections 1703A  
2 and 1710(a)(1)(B)”.

3 (C) DEATH IN DEPARTMENT FACILITY.—  
4 Section 2303(a)(2)(B)(i) of such title is amend-  
5 ed by striking “in accordance with section  
6 1703” and inserting “under section 1703A”.

7 (D) MEDICARE PROVIDER AGREEMENTS.—  
8 Section 1866(a)(1)(L) of the Social Security  
9 Act (42 U.S.C. 1395cc(a)(1)(L)) is amended by  
10 striking “under section 1703 of title 38” and  
11 inserting “under section 1703A of title 38”.

12 (i) REPEAL OF SUPERSEDED AUTHORITY FOR EMER-  
13 GENCY TREATMENT REIMBURSEMENT.—

14 (1) NON-SERVICE CONNECTED.—

15 (A) IN GENERAL.—Section 1725 of such  
16 title is repealed.

17 (B) CONFORMING AMENDMENTS.—

18 (i) MEDICAL CARE COLLECTIONS  
19 FUND.—Section 1729A(b) of such title is  
20 amended—

21 (I) by striking paragraph (5);

22 and

23 (II) by redesignating paragraphs  
24 (6) through (10) as paragraphs (5)  
25 through (9), respectively.

1 (ii) MEDICAL CARE FOR SURVIVORS  
2 AND DEPENDENTS.—Section 1781(a)(4) of  
3 such title is amended by striking “section  
4 1725(f)” and inserting “section 1703(j)”.

5 (iii) HEALTH CARE FOR FAMILY MEM-  
6 BERS OF VETERANS STATIONED AT CAMP  
7 LEJEUNE, NORTH CAROLINA.—Section  
8 1787(b)(3) of such title is amended by  
9 striking “section 1725(f)” and inserting  
10 “section 1703(j)”.

11 (2) SERVICE CONNECTED.—Section 1728 of  
12 such title is repealed.

13 (j) EFFECTIVE DATES.—

14 (1) COMMUNITY CARE PROGRAM.—The amend-  
15 ments made by subsections (a), (d), and (i) shall  
16 take effect on the date that is one year after the  
17 date of the enactment of this Act.

18 (2) REPEAL OF SUPERSEDED AUTHORITY.—

19 (A) IN GENERAL.—The amendments made  
20 by subsection (h) shall take effect on the date  
21 on which the Secretary of Veterans Affairs cer-  
22 tifies to Congress that the Secretary is fully im-  
23 plementing the Care in the Community Pro-  
24 gram under section 1703A of title 38, United  
25 States Code, as added by subsection (a).

1 (B) PUBLICATION.—The Secretary shall  
2 publish the date specified in subparagraph (A)  
3 in the Federal Register not later than 90 days  
4 before such date.

5 **SEC. 4. AUTHORIZATION OF USE OF CERTAIN AMOUNTS AP-**  
6 **PROPRIATED TO THE VETERANS CHOICE**  
7 **FUND FOR OTHER NON-DEPARTMENT OF**  
8 **VETERANS AFFAIRS CARE.**

9 Section 802 of the Veterans Access, Choice, and Ac-  
10 countability Act of 2014 (Public Law 113–146; 128 Stat.  
11 1801) is amended—

12 (1) in subsection (c)—

13 (A) in paragraph (1)—

14 (i) by striking “Except as provided by  
15 paragraph (3), any” and inserting “Any”;  
16 and

17 (ii) by striking “by the Secretary of  
18 Veterans Affairs” and all that following  
19 through the period at the end and insert-  
20 ing “by the Secretary of Veterans Af-  
21 fairs—

22 “(A) to carry out section 101, including,  
23 subject to paragraph (2), any administrative re-  
24 quirements of such section;

1           “(B) to furnish health care to individuals  
2           under chapter 17 of title 38, United States  
3           Code, at non-Department facilities, including  
4           pursuant to non-Department provider programs  
5           other than the program under section 101; and

6           “(C) to furnish disability examinations  
7           conducted by health care providers that are not  
8           health care providers of the Department of Vet-  
9           erans Affairs.”; and

10           (B) by striking paragraph (3) and insert-  
11           ing the following new paragraphs:

12           “(3) TREATMENT OF AMOUNTS.—Amounts  
13           made available to the Secretary under this section  
14           shall be in addition to amounts made available to  
15           the Secretary in the Medical Services account of the  
16           Department of Veterans Affairs.

17           “(4) DEFINITIONS.—In this subsection:

18           “(A) The term ‘non-Department facilities’  
19           has the meaning given that term in section  
20           1701 of title 38, United States Code.

21           “(B) The term ‘non-Department provider  
22           programs’ has the meaning given that term in  
23           section 4002(d) of the VA Budget and Choice  
24           Improvement Act (Public Law 114–41; 129  
25           Stat. 462).”; and

1           (2) in subsection (d)(1), by striking “only for  
2           the program” and all that follows through the period  
3           at the end and inserting “only for the purposes spec-  
4           ified in subsection (c)(1).”.

5 **SEC. 5. INTERDISCIPLINARY PANEL ON DEVELOPMENT OF**  
6                           **CLINICAL APPEALS PROCESS FOR THE DE-**  
7                           **PARTMENT OF VETERANS AFFAIRS.**

8           (a) IN GENERAL.—The Secretary of Veterans Affairs  
9           shall establish an interdisciplinary panel to assist the Sec-  
10          retary in developing a new clinical appeals process for re-  
11          solving disputes regarding health care furnished under the  
12          laws administered by the Secretary of Veterans Affairs,  
13          including health care furnished under the Care in the  
14          Community Program under section 1703A of title 38,  
15          United States Code, as added by section 3(a).

16          (b) DUTIES.—The duties of the interdisciplinary  
17          panel established under subsection (a) are the following:

18                 (1) To create one process throughout the Vet-  
19                 erans Health Administration for resolving clinical  
20                 disputes.

21                 (2) To ensure that such process provides vet-  
22                 erans with the ability to have an external review at  
23                 his or her discretion.



1           (3) What the Secretary can do to improve the  
2           hiring, retaining, and training of medical support as-  
3           sistants of the Department.

4           (b) REPORT ON TRAVEL BENEFITS PROGRAM OF  
5 DEPARTMENT.—Not later than one year after the date of  
6 the enactment of this Act, the Comptroller General shall  
7 submit to Congress a report on the travel benefits pro-  
8 gram of the Department under sections 111 and 111A of  
9 title 38, United States Code, that includes an assessment  
10 of the following:

11           (1) How such program can be improved to en-  
12           sure that veterans are reimbursed for travel in a  
13           timely manner.

14           (2) What the Secretary can do to speed up the  
15           reimbursement process while protecting against  
16           fraud, waste, and abuse.

17           (3) Whether there should be changes made to  
18           eligibility for such program.

19           (c) REPORT ON OFFICE OF CONGRESSIONAL AND  
20 LEGISLATIVE AFFAIRS OF DEPARTMENT.—Not later than  
21 one year after the date of the enactment of this Act, the  
22 Comptroller General shall submit to Congress a report on  
23 the structure and management of the Office of Congres-  
24 sional and Legislative Affairs of the Department, includ-  
25 ing an assessment of what the Secretary can do to enable

1 the Office to provide more timely, complete responses to  
2 requests from Congress.

3 (d) REPORT ON PAYMENT FOR NON-DEPARTMENT  
4 CARE.—Not later than one year after the date of the en-  
5 actment of this Act, the Comptroller General shall submit  
6 to Congress a report on payment by the Department for  
7 health care furnished to veterans through non-Department  
8 health care providers, including an assessment of the fol-  
9 lowing:

10 (1) When the Department should be the pri-  
11 mary payer for such care and when the Department  
12 should be the secondary payer for such care.

13 (2) How payment by the Department for such  
14 care should function with coverage under private in-  
15 surance, coverage under the Medicare program, and  
16 other health coverage options.

17 **SEC. 7. ESTABLISHMENT OF PAYMENT AND ACCESS COM-**  
18 **MISSION FOR VETERANS HEALTH ADMINIS-**  
19 **TRATION.**

20 (a) ESTABLISHMENT.—Subchapter II of chapter 73  
21 of title 38, United States Code, is amended by inserting  
22 after section 7330A the following new section:

23 **“§ 7330B. Payment and Access Commission**

24 “(a) ESTABLISHMENT.—There is established in the  
25 Veterans Health Administration a Payment and Access

1 Commission (in this section referred to as the  
2 ‘VHAPAC’).

3 “(b) MEMBERSHIP.—(1) The VHAPAC shall be com-  
4 posed of 17 members appointed by the Comptroller Gen-  
5 eral of the United States.

6 “(2)(A) The membership of VHAPAC shall include  
7 the following:

8 “(i) Veterans who have received care from the  
9 Veterans Health Administration.

10 “(ii) Individuals with national recognition for  
11 their expertise with respect to—

12 “(I) Federal health programs;

13 “(II) health finance and economics;

14 “(III) actuarial science;

15 “(IV) health plans and integrated delivery  
16 systems;

17 “(V) reimbursement for health care; or

18 “(VI) health information technology.

19 “(iii) Providers of health services, public health,  
20 and other related fields.

21 “(iv) Physicians and other health professionals.

22 “(v) Individuals with expertise in the delivery of  
23 health services.

24 “(B) Members of the VHAPAC shall be appointed  
25 in a manner to provide a mix of different professions,

1 broad geographic representation, and a balance between  
2 urban and rural representation.

3 “(C) Members described in clauses (iv) and (v) of  
4 subparagraph (A) shall include representatives of vet-  
5 erans, including veterans with disabilities, and caregivers.

6 “(D) Individuals who are directly involved in the pro-  
7 vision, or management of the delivery, of items and serv-  
8 ices furnished by the Department shall not constitute a  
9 majority of the membership of the VHAPAC.

10 “(E) The Comptroller General of the United States  
11 shall establish a system for public disclosure by members  
12 of the VHAPAC of financial and other potential conflicts  
13 of interest relating to such members.

14 “(F) Members of the VHAPAC shall be treated as  
15 employees of Congress for purposes of applying title I of  
16 the Ethics in Government Act of 1978 (5 U.S.C. App.).

17 “(3)(A) The terms of members of the VHAPAC shall  
18 be for three years except that the Comptroller General of  
19 the United States shall designate staggered terms for the  
20 members first appointed.

21 “(B) Any member appointed to fill a vacancy occur-  
22 ring before the expiration of the term for which the mem-  
23 ber’s predecessor was appointed shall be appointed only  
24 for the remainder of that term. A member may serve after  
25 the expiration of that member’s term until a successor has

1 taken office. A vacancy in the VHAPAC shall be filled in  
2 the manner in which the original appointment was made.

3 “(4)(A) While serving on the business of the  
4 VHAPAC (including travel time), a member of the  
5 VHAPAC shall be entitled to compensation at the per  
6 diem equivalent of the rate provided for level IV of the  
7 Executive Schedule under section 5315 of title 5.

8 “(B) While serving on the business of the VHAPAC  
9 (including travel time) away from home and the member’s  
10 regular place of business, a member may be allowed travel  
11 expenses, as authorized by the Chairman of the VHAPAC.

12 “(5) The Comptroller General of the United States  
13 shall designate a Chairman and Vice Chairman of the  
14 VHAPAC, at the time of appointment of each such indi-  
15 vidual as a member of the VHAPAC, for the term of ap-  
16 pointment of such individual, except that in the case of  
17 vacancy of the Chairmanship or Vice Chairmanship, the  
18 Comptroller General may designate another member for  
19 the remainder of the term of the Chairman or Vice Chair-  
20 man, as the case may be.

21 “(6) The VHAPAC shall meet at the call of the  
22 Chairman.

23 “(c) DUTIES.—(1) The VHAPAC shall—

24 “(A) review policies of the Veterans Health Ad-  
25 ministration affecting access of veterans to health

1 care, including topics affected by the Care in the  
2 Community Program under section 1703A of this  
3 title;

4 “(B) make recommendations to Congress, the  
5 Secretary, and States concerning such access poli-  
6 cies; and

7 “(C) by not later than March 15 of each year  
8 (beginning with 2018), submit to Congress a report  
9 containing—

10 “(i) the results of reviews conducted under  
11 subparagraph (A);

12 “(ii) recommendations made under sub-  
13 paragraph (B); and

14 “(iii) an examination of the implications of  
15 changes in health care delivery in the United  
16 States and in the market for health care serv-  
17 ices on health care furnished under the laws ad-  
18 ministered by the Secretary.

19 “(2) Specifically, the VHAPAC shall review and as-  
20 sess the following:

21 “(A) Payment policies regarding payment by  
22 the Secretary for health care furnished under the  
23 laws administered by the Secretary by non-Depart-  
24 ment providers, including—

1           “(i) the factors affecting expenditures for  
2 the efficient provision of items and services in  
3 different sectors, including the process for up-  
4 dating payments to medical, dental, and health  
5 professionals, hospitals, residential and long-  
6 term care providers, providers of home and  
7 community based services, Federally-qualified  
8 health centers and rural health clinics (as de-  
9 fined in section 1905(l) of the Social Security  
10 Act (42 U.S.C. 1396d(l))), managed care enti-  
11 ties, and providers of other covered items and  
12 services;

13           “(ii) payment methodologies; and

14           “(iii) the relationship of such factors and  
15 methodologies to access and quality of care for  
16 veterans receiving care under the laws adminis-  
17 tered by the Secretary (including how such fac-  
18 tors and methodologies enable such veterans to  
19 obtain the services for which they are eligible,  
20 affect provider supply, and affect providers that  
21 serve a disproportionate share of low-income  
22 and other vulnerable populations).

23           “(B) Eligibility policies for receiving care under  
24 the laws administered by the Secretary, including

1 the Care in the Community Program under section  
2 1703A of this title.

3 “(C) Enrollment and retention processes for re-  
4 ceiving care under the laws administered by the Sec-  
5 retary.

6 “(D) Policies of the Department relating to the  
7 quality of care furnished under the laws adminis-  
8 tered by the Secretary.

9 “(E) The effect of payment policies described in  
10 subparagraph (A), especially under the Care in the  
11 Community Program under section 1703A of this  
12 title, on access to items and services for veterans  
13 and the implications of changes in health care deliv-  
14 ery in the United States and in the general market  
15 for health care items and services on such payment  
16 policies.

17 “(F) The interaction of policies of the Depart-  
18 ment, including under the Care in the Community  
19 Program, with the Medicaid and Medicare programs,  
20 private insurance, and other forms of health care  
21 coverage such as the TRICARE program (as defined  
22 in section 1072 of title 10), including with respect  
23 to how such interactions affect access to services,  
24 payments, and dual eligible individuals.

1           “(G) The effect of policies of the Department  
2           on access to covered items and services, including  
3           policies relating to transportation and preventive,  
4           acute, and long-term services and supports.

5           “(3) The VHAPAC shall—

6           “(A) review national data regarding health care  
7           furnished under the laws administered by the Sec-  
8           retary; and

9           “(B) submit reports and recommendations to  
10          Congress and the Secretary, including recommenda-  
11          tions that do not require changes in law.

12          “(4)(A) The VHAPAC shall create an early-warning  
13          system to identify provider shortage areas, as well as other  
14          factors that adversely affect, or have the potential to ad-  
15          versely affect, access to care by, or the health care status  
16          of, veterans eligible for health care under the laws admin-  
17          istered by the Secretary.

18          “(B) The VHAPAC shall include in the annual report  
19          required under paragraph (1)(C) a description of all areas  
20          and factors identified under subparagraph (A) with re-  
21          spect to the period addressed in the report.

22          “(5)(A) If the Secretary submits to Congress (or a  
23          committee of Congress) a report that is required by law  
24          and that relates to policies relating to access to health care  
25          under the laws administered by the Secretary, including

1 with respect to payment policies for non-Department pro-  
2 viders, the Secretary shall transmit a copy of the report  
3 to the VHAPAC. The VHAPAC shall review the report  
4 and, not later than 180 days after the date of submittal  
5 by the Secretary of the report to Congress, shall submit  
6 to the appropriate committees of Congress and the Sec-  
7 retary written comments on such report. Such comments  
8 may include such recommendations as the VHAPAC de-  
9 termines appropriate.

10 “(B) The VHAPAC shall review regulations of the  
11 Department relating to the provision of health care and  
12 may comment through submission of a report to the ap-  
13 propriate committees of Congress and the Secretary on  
14 any such regulations that affect access, quality, or effi-  
15 ciency of health care under the laws administered by the  
16 Secretary.

17 “(6)(A) The VHAPAC shall consult periodically with  
18 the chairmen and ranking minority members of the appro-  
19 priate committees of Congress regarding the agenda of the  
20 VHAPAC and progress towards achieving that agenda.

21 “(B) The VHAPAC may conduct additional reviews  
22 and submit additional reports to the appropriate commit-  
23 tees of Congress from time to time on such topics relating  
24 to the policies and programs of the Veterans Health Ad-  
25 ministration as may be requested by the chairmen and

1 ranking minority members of such committees and as the  
2 VHAPAC determines appropriate.

3 “(7) The VHAPAC shall transmit to the Secretary  
4 a copy of each report submitted under this subsection and  
5 shall make such reports available to the public.

6 “(8) With respect to each recommendation contained  
7 in a report submitted under paragraph (1)(C), each mem-  
8 ber of the VHAPAC shall vote on the recommendation,  
9 and the VHAPAC shall include, by member, the results  
10 of that vote in the report containing the recommendation.

11 “(9) Before making any recommendations under this  
12 section, the VHAPAC shall examine the budget con-  
13 sequences of such recommendations, directly or through  
14 consultation with appropriate expert entities, and shall  
15 submit with any recommendations a report on the con-  
16 sequences to the Federal Government of the recommenda-  
17 tions.

18 “(10)(A) The VHAPAC shall consult with the Medi-  
19 care Payment Advisory Commission established under sec-  
20 tion 1805 of the Social Security Act (42 U.S.C. 1395b-  
21 6) in carrying out its duties under this section, as the  
22 VHAPAC determines appropriate.

23 “(B) The VHAPAC and the Medicare Payment Advi-  
24 sory Commission shall have access to deliberations and

1 records of the other such entity, respectively, upon the re-  
2 quest of the other such entity.

3 “(11) The VHAPAC shall regularly consult with vet-  
4 erans service organizations in carrying out its duties under  
5 this section, including with respect to developing processes  
6 for carrying out such duties, and shall ensure that input  
7 from veterans service organizations is taken into account  
8 and represented in recommendations and reports prepared  
9 by the VHAPAC.

10 “(12) The authority of the VHAPAC to make rec-  
11 ommendations under this section shall not affect, or be  
12 considered to duplicate, the authority of the Secretary to  
13 carry out Federal responsibilities with respect to programs  
14 of the Veterans Health Administration.

15 “(13) In this subsection:

16 “(A) The term ‘appropriate committees of Con-  
17 gress’ means the Committee on Veterans’ Affairs of  
18 the Senate and the Committee on Veterans’ Affairs  
19 of the House of Representatives.

20 “(B) The term ‘veterans service organization’  
21 means an organization recognized by the Secretary  
22 for the representation of veterans under section  
23 5902 of this title.

24 “(d) PERSONNEL.—(1) Subject to such review as the  
25 Comptroller General of the United States determines nec-

1 essary to assure the efficient administration of the  
2 VHAPAC, the VHAPAC may—

3           “(A) employ and fix the compensation of an  
4           Executive Director (subject to the approval of the  
5           Comptroller General) and such other personnel as  
6           may be necessary to carry out the duties of the  
7           VHAPAC (without regard to the provisions of title  
8           5 governing appointments in the competitive serv-  
9           ice);

10           “(B) seek such assistance and support as may  
11           be required in the performance of the duties of the  
12           VHAPAC from appropriate Federal and State de-  
13           partments and agencies;

14           “(C) enter into contracts or make other ar-  
15           rangements as may be necessary for the conduct of  
16           the work of the VHAPAC (without regard to section  
17           6101 of title 41);

18           “(D) make advance, progress, and other pay-  
19           ments which relate to the work of the VHAPAC;

20           “(E) provide transportation and subsistence for  
21           persons serving without compensation; and

22           “(F) prescribe such rules and regulations as the  
23           VHAPAC determines necessary with respect to the  
24           internal organization and operation of the VHAPAC.

1           “(2)(A) For purposes of pay (other than pay of  
2 members of the VHAPAC) and employment benefits,  
3 rights, and privileges, all personnel of the VHAPAC  
4 shall be treated as if they were employees of the  
5 United States Senate.

6           “(B) Physicians serving as personnel of the  
7 VHAPAC may be provided a physician comparability  
8 allowance by the VHAPAC in the same manner as  
9 Government physicians may be provided such an al-  
10 lowance by an agency under section 5948 of title 5,  
11 and for such purpose subsection (i) of such section  
12 shall apply to the VHAPAC in the same manner as  
13 it applies to the Tennessee Valley Authority.

14           “(e) POWERS.—(1) The VHAPAC may secure di-  
15 rectly from any Federal agency information in the posses-  
16 sion of that agency necessary to enable the VHAPAC to  
17 carry out this section. Upon request of the Chairman, the  
18 head of that agency shall furnish that information to the  
19 VHAPAC on an agreed upon schedule.

20           “(2) In order to carry out its functions, the VHAPAC  
21 shall—

22           “(A) if possible, use existing information, both  
23 published and unpublished, collected and assessed ei-  
24 ther by personnel of the VHAPAC or under other  
25 arrangements made in accordance with this section;

1           “(B) carry out, or award grants or contracts  
2           for, original research and experimentation if existing  
3           information is inadequate; and

4           “(C) adopt procedures allowing any interested  
5           party to submit information for use by the VHAPAC  
6           in making reports and recommendations.

7           “(3) The Comptroller General of the United States  
8           shall have unrestricted access to all deliberations, records,  
9           and nonproprietary data of the VHAPAC, immediately  
10          upon request.

11          “(4) The VHAPAC shall be subject to periodic audit  
12          by the Comptroller General.

13          “(f) FUNDING.—The VHAPAC shall submit requests  
14          for appropriations in the same manner as the Comptroller  
15          General of the United States submits requests for appro-  
16          priations, but amounts appropriated for the VHAPAC  
17          shall be separate from amounts appropriated for the  
18          Comptroller General.”.

19          (b) CLERICAL AMENDMENT.—The table of sections  
20          at the beginning of chapter 73 of such title is amended  
21          by inserting after the item relating to section 7330A the  
22          following new item:

“7330B. Payment and Access Commission.”.

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