

116TH CONGRESS
1ST SESSION

H. R. 3530

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2019

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to enforce the licensure requirement for medical providers of the Department of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improving Confidence
3 in Veterans’ Care Act”.

4 **SEC. 2. COMPLIANCE WITH REQUIREMENTS FOR EXAM-**
5 **INING QUALIFICATIONS AND CLINICAL ABILI-**
6 **TIES OF DEPARTMENT OF VETERANS AF-**
7 **FAIRS HEALTH CARE PROFESSIONALS.**

8 (a) IN GENERAL.—Subchapter I of chapter 74 of title
9 38, United States Code, is amended by adding at the end
10 the following new section:

11 **“§ 7414. Compliance with requirements for examining**
12 **qualifications and clinical abilities of**
13 **health care professionals**

14 “(a) COMPLIANCE WITH CREDENTIALING REQUIRE-
15 MENTS.—The Secretary shall ensure that each medical
16 center of the Department, in a consistent manner—

17 “(1) compiles, verifies, and reviews documenta-
18 tion for each health care professional of the Depart-
19 ment at such medical center regarding, at a min-
20 imum—

21 “(A) the professional licensure, certifi-
22 cation, or registration of the health care profes-
23 sional;

24 “(B) whether the health care professional
25 holds a Drug Enforcement Administration reg-
26 istration; and

1 “(C) the education, training, experience,
2 malpractice history, and clinical competence of
3 the health care professional; and

4 “(2) continuously monitors any changes to the
5 matters under paragraph (1), including with respect
6 to suspensions, restrictions, limitations, probations,
7 denials, revocations, and other changes, relating to
8 the failure of a health care professional to meet gen-
9 erally accepted standards of clinical practice in a
10 manner that presents reasonable concern for the
11 safety of patients.

12 “(b) REGISTRATION REGARDING CONTROLLED SUB-
13 STANCES.—(1) Except as provided by paragraph (2), the
14 Secretary shall ensure that each covered health care pro-
15 fessional holds an active Drug Enforcement Administra-
16 tion registration.

17 “(2) The Secretary shall—

18 “(A) determine the circumstances in which a
19 medical center of the Department must obtain a
20 waiver under section 303 of the Controlled Sub-
21 stances Act (21 U.S.C. 823) with respect to covered
22 health care professionals; and

23 “(B) establish a process for medical centers to
24 request such waivers.

1 “(3) In carrying out paragraph (1), the Secretary
2 shall ensure that each medical center of the Department
3 monitors the Drug Enforcement Administration registra-
4 tions of covered health care professionals at such medical
5 center in a manner that ensures the medical center is
6 made aware of any change in status in the registration
7 by not later than 7 days after such change in status.

8 “(4) If a covered health care professional does not
9 hold an active Drug Enforcement Administration registra-
10 tion, the Secretary shall carry out any of the following ac-
11 tions, as the Secretary determines appropriate:

12 “(A) Obtain a waiver pursuant to paragraph
13 (2).

14 “(B) Transfer the health care professional to a
15 position that does not require prescribing, dis-
16 pensing, administering, or conducting research with
17 controlled substances.

18 “(C) Take adverse actions under subchapter V
19 of this chapter, with respect to an employee of the
20 Department, or terminate the services of a con-
21 tractor, with respect to a contractor of the Depart-
22 ment.

23 “(c) **REVIEWS OF CONCERNS RELATING TO QUALITY**
24 **OF CLINICAL CARE.**—(1) The Secretary shall ensure that

1 each medical center of the Department, in a consistent
2 manner, carries out—

3 “(A) ongoing, retrospective, and comprehensive moni-
4 toring of the performance and quality of the health care
5 delivered by each health care professional of the Depart-
6 ment located at the medical center, including with respect
7 to the safety of such care; and

8 “(B) timely and documented reviews of such care if
9 an individual notifies the Secretary of any potential con-
10 cerns relating to a failure of the health care professional
11 to meet generally accepted standards of clinical practice
12 in a manner that presents reasonable concern for the safe-
13 ty of patients.

14 “(2) The Secretary shall establish a policy to carry
15 out paragraph (1), including with respect to—

16 “(A) determining the period by which a medical
17 center of the Department must initiate the review of
18 a concern described in subparagraph (B) of such
19 paragraph following the date on which the concern
20 is received; and

21 “(B) ensuring the compliance of each medical
22 center with such policy.

23 “(d) COMPLIANCE WITH REQUIREMENTS FOR RE-
24 PORTING QUALITY OF CARE CONCERNS.—When the Sec-
25 retary substantiates a concern relating to the clinical com-

1 petency of, or quality of care delivered by, a health care
2 professional of the Department (including a former such
3 health care professional), the Secretary shall ensure that
4 the appropriate medical center of the Department timely
5 notifies the following entities of such concern, as appro-
6 priate:

7 “(1) The appropriate licensing, registration, or
8 certification body in each State in which the health
9 care professional is licensed, registered, or certified.

10 “(2) The Drug Enforcement Administration.

11 “(3) The National Practitioner Data Bank es-
12 tablished pursuant to the Health Care Quality Im-
13 provement Act of 1986 (42 U.S.C. 11101 et seq.).

14 “(4) Any other relevant entity.

15 “(e) PROHIBITION ON CERTAIN SETTLEMENT
16 AGREEMENT TERMS.—(1) Except as provided by para-
17 graph (2), the Secretary may not enter into a settlement
18 agreement relating to an adverse action against a health
19 care professional of the Department if such agreement in-
20 cludes terms that require the Secretary to conceal from
21 the personnel file of the employee a serious medical error
22 or lapse in clinical practice that constitutes a substantial
23 failure to meet generally accepted standards of clinical
24 practice as to raise reasonable concern for the safety of
25 patients.

1 “(2) Paragraph (1) does not apply to adverse actions
2 that the Special Counsel under section 1211 of title 5 de-
3 termines constitutes a prohibited personnel practice.

4 “(f) TRAINING.—Not less frequently than biannually,
5 the Secretary shall provide mandatory training to employ-
6 ees of each medical center of the Department who are re-
7 sponsible for any of the following activities:

8 “(1) Compiling, validating, or reviewing the cre-
9 dentials of health care professionals of the Depart-
10 ment.

11 “(2) Reviewing the quality of clinical care deliv-
12 ered by health care professionals of the Department.

13 “(3) Taking adverse privileging actions or mak-
14 ing determinations relating to other disciplinary ac-
15 tions or employment actions against health care pro-
16 fessionals of the Department for reasons relating to
17 the failure of a health care professional to meet gen-
18 erally accepted standards of clinical practice in a
19 manner that presents reasonable concern for the
20 safety of patients.

21 “(4) Making notifications under subsection (d).

22 “(g) DEFINITIONS.—In this section:

23 “(1) The term ‘controlled substance’ has the
24 meaning given that term in section 102 of the Con-
25 trolled Substances Act (21 U.S.C. 802).

1 “(2) The term ‘covered health care professional’
2 means a person employed in a position as a health
3 care professional of the Department, or a contractor
4 of the Department, that requires the person to be
5 authorized to prescribe, dispense, administer, or con-
6 duct research with, controlled substances.

7 “(3) The term ‘Drug Enforcement Administra-
8 tion registration’ means registration with the Drug
9 Enforcement Administration under section 303 of
10 the Controlled Substances Act (21 U.S.C. 823) by
11 health care practitioners authorized to dispense, pre-
12 scribe, administer, or conduct research with, con-
13 trolled substances.

14 “(4) The term ‘health care professional of the
15 Department’ means the professionals described in
16 section 1730C(b) of this title, and includes a con-
17 tractor of the Department serving as such a profes-
18 sional.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of such chapter is amended by inserting
21 after the item relating to section 7413 the following new
22 item:

“7414. Compliance with requirements for examining qualifications and clinical
abilities of health care professionals.”.

23 (c) DEADLINE FOR IMPLEMENTATION.—The Sec-
24 retary of Veterans Affairs shall commence the implemen-

1 tation of section 7414 of title 38, United States Code, as
2 added by subsection (a), by the following dates:

3 (1) With respect to subsections (a), (c)(2), (d),
4 and (f), not later than 180 days after the date of the
5 enactment of this Act.

6 (2) With respect to subsection (c)(1), not later
7 than 1 year after the date of the enactment of this
8 Act.

9 (3) With respect to subsection (b)(2), not later
10 than 18 months after the date of the enactment of
11 this Act.

12 (d) AUDITS AND REPORTS.—

13 (1) AUDITS.—The Secretary of Veterans Af-
14 fairs shall carry out annual audits of the compliance
15 of medical centers of the Department of Veterans
16 Affairs with the matters required by section 7414 of
17 title 38, United States Code, as added by subsection
18 (a). In carrying out such audits, the Secretary—

19 (A) may not authorize the medical center
20 being audited to conduct the audit; and

21 (B) may enter into an agreement with an-
22 other department or agency of the Federal Gov-
23 ernment or a nongovernmental entity to con-
24 duct such audits.

1 (2) REPORTS.—Not later than 1 year after the
2 date of the enactment of this Act, and annually
3 thereafter for 5 years, the Secretary of Veterans Af-
4 fairs shall submit to the Committees on Veterans’
5 Affairs of the House of Representatives and the Sen-
6 ate a report on the audits conducted under para-
7 graph (1). Each such report shall include a sum-
8 mary of the compliance by each medical center with
9 the matters required by such section 7414.

10 (3) INITIAL REPORT.—The Secretary shall in-
11 clude in the first report submitted under paragraph
12 (2) the following:

13 (A) A description of the progress made by
14 the Secretary in implementing such section
15 7414, including any matters under such section
16 that the Secretary has not fully implemented.

17 (B) An analysis of the feasibility, advis-
18 ability, and cost of requiring credentialing em-
19 ployees of the Department to be trained by an

1 outside entity and to maintain a credentialing
2 certification.

Passed the House of Representatives December 17,
2019.

Attest: CHERYL L. JOHNSON,
Clerk.