

114TH CONGRESS
1ST SESSION

H. R. 3216

To amend title 38, United States Code, to clarify the emergency hospital care furnished by the Secretary of Veterans Affairs to certain veterans.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2015

Mr. NEWHOUSE (for himself, Mr. BOUSTANY, Ms. BORDALLO, and Mr. LATTA) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to clarify the emergency hospital care furnished by the Secretary of Veterans Affairs to certain veterans.

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 “Veterans Emergency
5 Treatment Act” or the “VET Act”.

1 **SEC. 2. CLARIFICATION OF EMERGENCY HOSPITAL CARE**
2 **FURNISHED BY THE SECRETARY OF VET-**
3 **ERANS AFFAIRS TO CERTAIN VETERANS.**

4 (a) IN GENERAL.—Chapter 17 of title 38, United
5 States Code, is amended by inserting after section 1730A
6 the following new section:

7 **“§ 1730B. Examination and treatment for emergency**
8 **medical conditions and women in labor**

9 “(a) MEDICAL SCREENING EXAMINATIONS.—In car-
10 rying out this chapter, if any enrolled veteran requests,
11 or a request is made on behalf of the veteran, for examina-
12 tion or treatment for a medical condition, regardless of
13 whether such condition is service-connected, at a hospital
14 emergency department of a medical facility of the Depart-
15 ment, the Secretary shall ensure that the veteran is pro-
16 vided an appropriate medical screening examination within
17 the capability of the emergency department, including an-
18 cillary services routinely available to the emergency de-
19 partment, to determine whether an emergency medical
20 condition exists.

21 “(b) NECESSARY STABILIZING TREATMENT FOR
22 EMERGENCY MEDICAL CONDITIONS AND LABOR.—(1) If
23 an enrolled veteran comes to a medical facility of the De-
24 partment and the Secretary determines that the veteran
25 has an emergency medical condition, the Secretary shall
26 provide either—

1 “(A) such further medical examination and
2 such treatment as may be required to stabilize the
3 medical condition; or

4 “(B) for the transfer of the veteran to another
5 medical facility of the Department or a non-Depart-
6 ment facility in accordance with subsection (c).

7 “(2) The Secretary is deemed to meet the require-
8 ment of paragraph (1)(A) with respect to an enrolled vet-
9 eran if the Secretary offers the veteran the further medical
10 examination and treatment described in such paragraph
11 and informs the veteran (or an individual acting on behalf
12 of the veteran) of the risks and benefits to the veteran
13 of such examination and treatment, but the veteran (or
14 individual) refuses to consent to the examination and
15 treatment. The Secretary shall take all reasonable steps
16 to secure the written informed consent of such veteran (or
17 individual) to refuse such examination and treatment.

18 “(3) The Secretary is deemed to meet the require-
19 ment of paragraph (1) with respect to an enrolled veteran
20 if the Secretary offers to transfer the individual to another
21 medical facility in accordance with subsection (c) of this
22 section and informs the veteran (or an individual acting
23 on behalf of the veteran) of the risks and benefits to the
24 veteran of such transfer, but the veteran (or individual)
25 refuses to consent to the transfer. The hospital shall take

1 all reasonable steps to secure the written informed consent
2 of such veteran (or individual) to refuse such transfer.

3 “(c) RESTRICTION OF TRANSFERS UNTIL VETERAN
4 STABILIZED.—(1) If an enrolled veteran at a medical fa-
5 cility of the Department has an emergency medical condi-
6 tion that has not been stabilized, the Secretary may not
7 transfer the veteran to another medical facility of the De-
8 partment or a non-Department facility unless—

9 “(A)(i) the veteran (or a legally responsible in-
10 dividual acting on behalf of the veteran), after being
11 informed of the obligation of the Secretary under
12 this section and of the risk of transfer, requests in
13 writing a transfer to another medical facility;

14 “(ii) a physician has signed a certification (in-
15 cluding a summary of the risks and benefits) that,
16 based upon the information available at the time of
17 transfer, the medical benefits reasonably expected
18 from the provision of appropriate medical treatment
19 at another medical facility outweigh the increased
20 risks to the veteran and, in the case of labor, to the
21 unborn child from effecting the transfer; or

22 “(iii) if a physician is not physically present in
23 the emergency department at the time a veteran is
24 transferred, a qualified medical person (as defined
25 by the Secretary in regulations) has signed a certifi-

1 cation described in clause (ii) after a physician, in
2 consultation with the person, has made the deter-
3 mination described in such clause, and subsequently
4 countersigns the certification; and

5 “(B) the transfer is an appropriate transfer as
6 described in paragraph (2).

7 “(2) An appropriate transfer to a medical facility is
8 a transfer—

9 “(A) in which the transferring medical facility
10 provides the medical treatment within the capacity
11 of the facility that minimizes the risks to the health
12 of the enrolled veteran and, in the case of a woman
13 in labor, the health of the unborn child;

14 “(B) in which the receiving facility—

15 “(i) has available space and qualified per-
16 sonnel for the treatment of the veteran; and

17 “(ii) has agreed to accept transfer of the
18 veteran and to provide appropriate medical
19 treatment;

20 “(C) in which the transferring facility sends to
21 the receiving facility all medical records (or copies
22 thereof), related to the emergency condition for
23 which the veteran has presented, available at the
24 time of the transfer, including records related to the
25 emergency medical condition of the veteran, observa-

1 tions of signs or symptoms, preliminary diagnosis,
2 treatment provided, results of any tests and the in-
3 formed written consent or certification (or copy
4 thereof) provided under paragraph (1)(A), and the
5 name and address of any on-call physician (de-
6 scribed in subsection (d)(1)(C) of this section) who
7 has refused or failed to appear within a reasonable
8 time to provide necessary stabilizing treatment;

9 “(D) in which the transfer is effected through
10 qualified personnel and transportation equipment, as
11 required including the use of necessary and medi-
12 cally appropriate life support measures during the
13 transfer; and

14 “(E) that meets such other requirements as the
15 Secretary may find necessary in the interest of the
16 health and safety of veterans transferred.

17 “(d) CHARGES.—(1) Nothing in this section may be
18 construed to affect any charges that the Secretary may
19 collect from a veteran or third party.

20 “(2) The Secretary shall treat any care provided by
21 a non-Department facility pursuant to this section as care
22 otherwise provided by a non-Department facility pursuant
23 to this chapter for purposes of paying such non-Depart-
24 ment facility for such care.

1 “(e) NONDISCRIMINATION.—A medical facility of the
2 Department or a non-Department facility, as the case may
3 be, that has specialized capabilities or facilities (such as
4 burn units, shock-trauma units, neonatal intensive care
5 units, or (with respect to rural areas) regional referral
6 centers as identified by the Secretary in regulation) shall
7 not refuse to accept an appropriate transfer of an enrolled
8 veteran who requires such specialized capabilities or facili-
9 ties if the facility has the capacity to treat the veteran.

10 “(f) NO DELAY IN EXAMINATION OR TREATMENT.—
11 A medical facility of the Department or a non-Department
12 facility, as the case may be, may not delay provision of
13 an appropriate medical screening examination required
14 under subsection (a) or further medical examination and
15 treatment required under subsection (b) of this section in
16 order to inquire about the method of payment or insurance
17 status of an enrolled veteran.

18 “(g) WHISTLEBLOWER PROTECTIONS.—The Sec-
19 retary may not take adverse action against an employee
20 of the Department because the employee refuses to au-
21 thorize the transfer of an enrolled veteran with an emer-
22 gency medical condition that has not been stabilized or
23 because the employee reports a violation of a requirement
24 of this section.

25 “(h) DEFINITIONS.—In this section:

1 “(1) The term ‘emergency medical condition’
2 means—

3 “(A) a medical condition manifesting itself
4 by acute symptoms of sufficient severity (in-
5 cluding severe pain) such that the absence of
6 immediate medical attention could reasonably
7 be expected to result in—

8 “(i) placing the health of the enrolled
9 veteran (or, with respect to an enrolled vet-
10 eran who is a pregnant woman, the health
11 of the woman or her unborn child) in seri-
12 ous jeopardy;

13 “(ii) serious impairment to bodily
14 functions; or

15 “(iii) serious dysfunction of any bodily
16 organ or part; or

17 “(B) with respect to an enrolled veteran
18 who is a pregnant woman having contractions—

19 “(i) that there is inadequate time to
20 effect a safe transfer to another hospital
21 before delivery; or

22 “(ii) that transfer may pose a threat
23 to the health or safety of the woman or the
24 unborn child.

1 “(2) The term ‘enrolled veteran’ means a vet-
2 eran who is enrolled in the health care system estab-
3 lished under section 1705(a) of this title.

4 “(3) The term ‘to stabilize’ means, with respect
5 to an emergency medical condition described in
6 paragraph (1)(A), to provide such medical treatment
7 of the condition as may be necessary to assure, with-
8 in reasonable medical probability, that no material
9 deterioration of the condition is likely to result from
10 or occur during the transfer of the enrolled veteran
11 from a facility, or, with respect to an emergency
12 medical condition described in paragraph (1)(B), to
13 deliver (including the placenta).

14 “(4) The term ‘stabilized’ means, with respect
15 to an emergency medical condition described in
16 paragraph (1)(A), that no material deterioration of
17 the condition is likely, within reasonable medical
18 probability, to result from or occur during the trans-
19 fer of the individual from a facility, or, with respect
20 to an emergency medical condition described in
21 paragraph (1)(B), that the woman has delivered (in-
22 cluding the placenta).

23 “(5) The term ‘transfer’ means the movement
24 (including the discharge) of an enrolled veteran out-
25 side the facilities of a medical facility of the Depart-

1 ment at the direction of any individual employed by
2 (or affiliated or associated, directly or indirectly,
3 with) the Department, but does not include such a
4 movement of an individual who—

5 “(A) has been declared dead; or

6 “(B) leaves the facility without the permis-
7 sion of any such person.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 of such chapter is amended by inserting after the item
10 relating to section 1730A the following new item:

“1730B. Examination and treatment for emergency medical conditions and
women in labor.”.

