

Public Law 102-585  
102d Congress

An Act

To amend title 38, United States Code, to improve health care services for women veterans, to expand authority for health care sharing agreements between the Department of Veterans Affairs and the Department of Defense to revise certain pay authorities that apply to Department of Veterans Affairs nurses, to improve preventive health services for veterans, to establish discounts on pharmaceuticals purchased by the Department of Veterans Affairs, to provide for a Persian Gulf War Veterans Health Registry, and to make other improvements in the delivery and administration of health care by the Department of Veterans Affairs.

Nov. 4, 1992  
[H.R. 5193]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans Health Care Act of 1992”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Veterans  
Health Care  
Act of 1992.  
38 USC 101  
note.

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

**TITLE I—WOMEN VETERANS HEALTH PROGRAMS**

Sec. 101. Short title.

Sec. 102. Sexual trauma counseling.

Sec. 103. Priority for outpatient care for sexual trauma counseling.

Sec. 104. Commencement of provision of information on services.

Sec. 105. Report on implementation of sexual trauma counseling program.

Sec. 106. Health care services for women.

Sec. 107. Report on health care and research.

Sec. 108. Coordination of services.

Sec. 109. Research relating to women veterans health.

Sec. 110. Population study of women veterans.

**TITLE II—HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE**

Sec. 201. Temporary expansion of authority for sharing agreements.

Sec. 202. Requirement for improvement in services for veterans.

Sec. 203. Expanded sharing agreements with Department of Defense.

Sec. 204. Expiration of authority.

Sec. 205. Consultation with veterans service organizations.

Sec. 206. Annual report.

**TITLE III—NURSE PAY**

Sec. 301. Revision to nurse pay grade schedule.

Sec. 302. Authority to establish special rates of pay for employees of facilities located outside the contiguous United States, Alaska, and Hawaii.

Sec. 303. Salary data for nurse anesthetists.

Sec. 304. Rates of pay for transferring nurses.

Sec. 305. Nursing personnel qualification standards.

Sec. 306. Report on pay for chief nurse position.

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**TITLE IV—STATE HOME AMENDMENTS**

Sec. 401. Treatment of earnings of veterans under certain rehabilitative services programs.

Sec. 402. Permanent authority to make grants to States relating to State homes.

- Sec. 403. Extension of period for completion of conditionally approved applications for construction.
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#### TITLE V—GENERAL HEALTH CARE AND ADMINISTRATION

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- Sec. 502. Permanent authority for respite care program.
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- Sec. 511. National Center for Preventive Health.
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- Sec. 513. Preventive health services.
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- Sec. 521. Geriatric research, education, and clinical centers.
- Sec. 522. Extension of authority to waive certain limitations applicable to receipt of retirement pay by nurses.
- Sec. 523. Health professionals education programs.
- Sec. 524. Real property at Temple Junior College, Temple, Texas.
- Sec. 525. Demonstration project to evaluate installation of telephones for patient use at Department health-care facilities.
- Sec. 526. Use of Tobacco Products in Department Facilities.

#### TITLE VI—DRUG PRICING AGREEMENTS

- Sec. 601. Treatment of prescription drugs procured by Department of Veterans Affairs or purchased by certain clinics and hospitals.
- Sec. 602. Limitations on prices of drugs purchased by certain clinics and hospitals.
- Sec. 603. Limitation on prices of drugs procured by Department of Veterans Affairs and certain other Federal agencies.

#### TITLE VII—PERSIAN GULF WAR VETERANS' HEALTH STATUS

- Sec. 701. Short title.
- Sec. 702. Persian Gulf War Veterans Health Registry.
- Sec. 703. Health examinations and counseling for veterans eligible for inclusion in certain health-related registries.
- Sec. 704. Expansion of coverage of Persian Gulf Registry.
- Sec. 705. Study by Office of Technology Assessment of Persian Gulf Registry and Persian Gulf War Veterans Health Registry.
- Sec. 706. Agreement with National Academy of Sciences for review of health consequences of service during the Persian Gulf War.
- Sec. 707. Coordination of government activities on health-related research on the Persian Gulf War.
- Sec. 708. Definition.

#### TITLE VIII—COURT OF VETERANS APPEALS

- Sec. 801. Disciplinary procedures for judges of Court of Veterans Appeals.

#### SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I—WOMEN VETERANS HEALTH PROGRAMS

#### SEC. 101. SHORT TITLE.

This title may be cited as the "Women Veterans Health Programs Act of 1992".

**SEC. 102. SEXUAL TRAUMA COUNSELING.**

(a) **IN GENERAL.**—(1) Chapter 17 of title 38, United States Code, is amended by adding at the end of subchapter II the following new section:

**“§ 1720D. Counseling to women veterans for sexual trauma**

“(a)(1) During the period through December 31, 1995, the Secretary may provide counseling to a woman veteran who the Secretary determines requires such counseling to overcome psychological trauma, which in the judgment of a mental health professional employed by the Department, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the veteran was serving on active duty.

“(2) To be eligible to receive counseling under this subsection, a veteran must seek such counseling from the Secretary within two years after the date of the veteran's discharge or release from active military, naval, or air service.

“(3) In furnishing counseling to a veteran under this subsection, the Secretary may, during the period through December 31, 1994, provide such counseling pursuant to a contract with a qualified mental health professional if (A) in the judgment of a mental health professional employed by the Department, the receipt of counseling by that veteran in facilities of the Department would be clinically inadvisable, or (B) Department facilities are not capable of furnishing such counseling to that veteran economically because of geographical inaccessibility.

“(b) In providing services to a veteran under subsection (a), the period for which counseling is provided may not exceed one year from the date of the commencement of the furnishing of such counseling to the veteran. However, the Secretary may authorize a longer period in any case if, in the judgment of the Secretary, a longer period of counseling is required.

“(c)(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling under subsection (a). In the case of a veteran eligible for such counseling who requires other care or services under this chapter for trauma described in subsection (a)(1), the Secretary shall ensure that the veteran is furnished counseling under this section in a way that is coordinated with the furnishing of such other care and services under this chapter.

“(2) In establishing a program to provide counseling under subsection (a), the Secretary shall—

“(A) provide for appropriate training of mental health professionals and such other health care personnel as the Secretary determines necessary to carry out the program effectively;

“(B) seek to ensure that such counseling is furnished in a setting that is therapeutically appropriate, taking into account the circumstances that resulted in the need for such counseling; and

“(C) provide referral services to assist women veterans who are not eligible for services under this chapter to obtain those from sources outside the Department.

“(d) The Secretary shall provide information on the counseling available to women veterans under this section. Efforts by the Secretary to provide such information—

Public  
information.

"(1) may include establishment of an information system involving the use of a toll-free telephone number (commonly referred to as an 800 number), and

"(2) shall include coordination with the Secretary of Defense seeking to ensure that women who are being separated from active military, naval, or air service are provided appropriate information about programs, requirements, and procedures for applying for counseling under this section.

"(e) In this section, the term 'sexual harassment' means repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character."

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1720C the following new item:

"1720D. Counseling to women veterans for sexual trauma."

38 USC 1720D  
note.

(b) **TRANSITION PROVISION.**—In the case of a veteran who was discharged or released from active military, naval, or air service before December 31, 1991, the two-year period specified in section 1720D(a)(2) of title 38, United States Code, as added by subsection (a), shall be treated as ending on December 31, 1993.

#### **SEC. 103. PRIORITY FOR OUTPATIENT CARE FOR SEXUAL TRAUMA COUNSELING.**

Section 1712(i)(2) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof ", (B)"; and

(2) by inserting before the period at the end thereof the following: ", or (C) who is eligible for counseling under section 1720D of this title, for the purposes of such counseling".

38 USC 1720D  
note.

#### **SEC. 104. COMMENCEMENT OF PROVISION OF INFORMATION ON SERVICES.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall commence the provision of information on the counseling relating to sexual trauma that is available to women veterans under section 1720D of title 38, United States Code (as added by section 102) in accordance with the provisions of subsection (d) of that section.

38 USC 1720D  
note.

#### **SEC. 105. REPORT ON IMPLEMENTATION OF SEXUAL TRAUMA COUNSELING PROGRAM.**

Not later than March 31, 1994, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a comprehensive report on the Secretary's actions under section 1720D of title 38, United States Code (as added by section 102), and on the use made of the authority provided under that section. The report shall include the following:

(1) The numbers of veterans who have received counseling under such section, shown by reference to the facility that provided that counseling and including the use made of the contract authority under such section.

(2) The number of veterans who received care or services under chapter 17 of title 38, United States Code, under the circumstances described in subsection (c)(1) of such section and the numbers referred to sources outside the Department,

shown by reference to the facility that provided those services or made those referrals.

(3) A listing and description of the specific training programs which the Secretary has instituted to ensure that the counseling program established under such section is carried out effectively.

(4) A description of the specific efforts taken by the Secretary to ensure that the counseling furnished by the Secretary under such section is furnished in settings that are therapeutically appropriate, taking into account the circumstances that resulted in the need for such counseling.

#### SEC. 106. HEALTH CARE SERVICES FOR WOMEN.

38 USC 1710  
note.

(a) GENERAL AUTHORITY.—In furnishing hospital care and medical services under chapter 17 of title 38, United States Code, the Secretary of Veterans Affairs may provide to women the following health care services:

(1) Papanicolaou tests (pap smears).

(2) Breast examinations and mammography.

(3) General reproductive health care, including the management of menopause, but not including under this section infertility services, abortions, or pregnancy care (including prenatal and delivery care), except for such care relating to a pregnancy that is complicated or in which the risks of complication are increased by a service-connected condition.

(b) RESPONSIBILITIES OF DIRECTORS OF FACILITIES.—The Secretary shall ensure that directors of medical facilities of the Department identify and assess opportunities under the authority provided in title II of this Act to (1) expand the availability of, and access to, health care services for women veterans under sections 1710 and 1712 of title 38, United States Code, and (2) provide counseling, care, and services authorized by this title.

#### SEC. 107. REPORT ON HEALTH CARE AND RESEARCH.

38 USC 1710  
note.

(a) IN GENERAL.—Not later than January 1, 1993, January 1, 1994, and January 1, 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the provision of health care services and the conduct of research carried out by, or under the jurisdiction of, the Secretary relating to women veterans.

(b) CONTENTS.—The report under subsection (a) shall include the following information with respect to the most recent fiscal year before the date of the report:

(1) The number of women veterans who have received services described in section 106 of this Act in facilities under the jurisdiction of the Secretary (or the Secretary of Defense), shown by reference to the Department facility which provided (or, in the case of Department of Defense facilities, arranged) those services;

(2) A description of (A) the services provided at each such facility, and (B) the extent to which each such facility relies on contractual arrangements under section 1703 or 8153 of title 38, United States Code, to furnish care to women veterans in facilities which are not under the jurisdiction of the Secretary where the provision of such care is not furnished in a medical emergency.



(3) The steps taken by each such facility to expand the provision of services at such facility (or under arrangements with a Department of Defense facility) to women veterans.

(4) A description (as of October 1 of the year preceding the year in which the report is submitted) of the status of any research relating to women veterans being carried out by or under the jurisdiction of the Secretary, including research under section 109 of this Act.

38 USC 1710  
note.

#### **SEC. 108. COORDINATION OF SERVICES.**

The Secretary of Veterans Affairs shall ensure that an official in each regional office of the Veterans Health Administration shall serve as a coordinator of women's services. The responsibilities of such official shall include the following:

(1) Conducting periodic assessments of the needs for services of women veterans within such region.

(2) Planning to meet such needs.

(3) Assisting in carrying out the purposes of section 106(b) of this title.

(4) Coordinating the training of women veterans coordinators who are assigned to Department facilities in the region under the jurisdiction of such regional coordinator.

(5) Providing appropriate technical support and guidance to Department facilities in that region with respect to outreach activities to women veterans.

38 USC 7303  
note.

#### **SEC. 109. RESEARCH RELATING TO WOMEN VETERANS HEALTH.**

(a) **INITIATION AND EXPANSION OF RESEARCH.**—The Secretary of Veterans Affairs, in carrying out the Secretary's responsibilities under section 7303 of title 38, United States Code, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—(1) Funds are authorized to be appropriated to the Secretary to initiate new studies in accordance with subsection (a) as follows:

(A) For fiscal year 1993, \$1,500,000.

(B) For fiscal year 1994, \$2,000,000.

(C) For fiscal year 1995, \$2,500,000.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) are in addition to other funds appropriated or otherwise made available to the Department of Veterans Affairs for research.

38 USC 1710  
note.

#### **SEC. 110. POPULATION STUDY OF WOMEN VETERANS.**

(a) **STUDY.**—(1) The Secretary, subject to subsection (d), shall conduct a study to determine the needs of veterans who are women for health-care services. The study shall be based on an appropriate sample of veterans who are women.

(2) Before carrying out the study, the Secretary shall request the advice of the Advisory Committee on Women Veterans on the conduct of the study.

(3) In carrying out the study, the Secretary shall include in the sample veterans who are women and members of the Armed Forces serving on active duty who are women.

(b) **REPORTS.**—The Secretary shall submit to the Committees on Veterans Affairs of the Senate and House of Representatives reports relating to the study as follows:

(1) Not later than 9 months after the date of the enactment of this Act, an interim report describing (A) the information and advice obtained by the Secretary from the Advisory Committee on Women Veterans, and (B) the status of the study.

(2) Not later than December 31, 1995, a final report describing the results of the study.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the general operating expenses account of the Department of Veterans Affairs \$2,000,000 to carry out the purposes of this section. Amounts appropriated pursuant to this authorization of appropriations shall be available for obligation until expended without fiscal year limitation.

(d) **LIMITATION.**—No funds may be used to conduct the study described in subsection (a) unless expressly provided for in an appropriation Act.

## **TITLE II—HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE**

38 USC 8111  
note.

### **SEC. 201. TEMPORARY EXPANSION OF AUTHORITY FOR SHARING AGREEMENTS.**

The Secretary of Veterans Affairs may enter into an agreement with the Secretary of Defense under this section to expand the availability of health-care sharing arrangements with the Department of Defense under section 8111(c) of title 38, United States Code. Under such an agreement—

(1) the head of a Department of Veterans Affairs medical facility may enter into agreements under section 8111(d) of that title with (A) the head of a Department of Defense medical facility, (B) with any other official of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility, or (C) with a contractor of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility; and

(2) the term “primary beneficiary” shall be treated as including—

(A) with respect to the Department of Veterans Affairs, any person who is described in section 1713 of title 38, United States Code; and

(B) with respect to the Department of Defense, any person who is a covered beneficiary under chapter 55 of title 10, United States Code.

### **SEC. 202. REQUIREMENT FOR IMPROVEMENT IN SERVICES FOR VETERANS.**

A proposed agreement authorized by section 201 that is entered into by the head of a Department of Veterans Affairs medical facility may take effect only if the Chief Medical Director finds,

and certifies to the Secretary of Veterans Affairs, that implementation of the agreement—

(1) will result in the improvement of services to eligible veterans at that facility; and

(2) will not result in the denial of, or a delay in providing, access to care for any veteran at that facility.

**SEC. 203. EXPANDED SHARING AGREEMENTS WITH DEPARTMENT OF DEFENSE.**

Under an agreement under section 201, guidelines under section 8111(b) of title 38, United States Code, may be modified to provide that, notwithstanding any other provision of law, any person who is a covered beneficiary under chapter 55 of title 10 and who is furnished care or services by a facility of the Department of Veterans Affairs under an agreement entered into under section 8111 of that title, or who is described in section 1713 of title 38, United States Code, and who is furnished care or services by a facility of the Department of Defense, may be authorized to receive such care or services—

(1) without regard to any otherwise applicable requirement for the payment of a copayment or deductible; or

(2) subject to a requirement to pay only part of any such otherwise applicable copayment or deductible, as specified in the guidelines.

**SEC. 204. EXPIRATION OF AUTHORITY.**

The authority to provide services pursuant to agreements entered into under section 201 expires on October 1, 1996.

**SEC. 205. CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.**

In carrying out this title, the Secretary of Veterans Affairs shall consult with organizations named in or approved under section 5902 of title 38, United States Code.

**SEC. 206. ANNUAL REPORT.**

(a) **IN GENERAL.**—For each of fiscal years 1993 through 1996, the Secretary of Defense and the Secretary of Veterans Affairs shall include in the annual report of the Secretaries under section 8111(f) of title 38, United States Code, a description of the Secretaries' implementation of this section.

(b) **ADDITIONAL MATTERS FOR FISCAL YEAR 1996 REPORT.**—In the report under subsection (a) for fiscal year 1996, the Secretaries shall include the following:

(1) An assessment of the effect of agreements entered into under section 201 on the delivery of health care to eligible veterans.

(2) An assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces, dependents of members or former members of a uniformed service, and beneficiaries under section 1713 of title 38, United States Code.

(3) Any plans for administrative action, and any recommendations for legislation, that the Secretaries consider appropriate to include in the report.



## TITLE III—NURSE PAY

### SEC. 301. REVISION TO NURSE PAY GRADE SCHEDULE.

(a) REVISION.—Section 7404(b)(1) is amended in the matter relating to “NURSE SCHEDULE” by striking out “Director grade.” and all that follows through “Entry grade.” and inserting in lieu thereof the following:

“Nurse V.  
“Nurse IV.  
“Nurse III.  
“Nurse II.  
“Nurse I.”

(b) CONFORMING AMENDMENT.—Section 7451(b) of such title is amended by striking out “four” and inserting in lieu thereof “five”.

### SEC. 302. AUTHORITY TO ESTABLISH SPECIAL RATES OF PAY FOR EMPLOYEES OF FACILITIES LOCATED OUTSIDE THE CONTIGUOUS UNITED STATES, ALASKA, AND HAWAII.

Section 7451(a)(3) is amended—

(1) by striking out “(3) The rates” and inserting in lieu thereof “(3)(A) Except as provided in subparagraph (B), the rates”; and

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

“(B) Under such regulations as the Secretary shall prescribe, the Secretary shall establish and adjust the rates of basic pay for covered positions at the following health-care facilities in order to provide rates of basic pay that enable the Secretary to recruit and retain sufficient numbers of health-care personnel in such positions at those facilities:

Regulations.

“(i) The Veterans Memorial Medical Center in the Republic of the Philippines.

“(ii) Department of Veterans Affairs health-care facilities located outside the contiguous States, Alaska, and Hawaii.”

### SEC. 303. SALARY DATA FOR NURSE ANESTHETISTS.

Section 7451(d)(3) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

“(C)(i) A director of a Department health-care facility may use data on the beginning rates of compensation paid to certified registered nurse anesthetists who are employed on a salary basis by entities that provide anesthesia services through certified registered nurse anesthetists in the labor-market area only if the director—

“(I) has conducted a survey of beginning rates of compensation for certified registered nurse anesthetists in the local labor market area of the facility under subparagraph (B);

“(II) has used all available administrative authority with regard to collection of survey data; and

“(III) makes a determination (under regulations prescribed by the Secretary) that such survey methods are insufficient to permit the adjustments referred to in subparagraph (B) for such nurse anesthetists employed by the facility.

"(ii) For the purposes of this subparagraph, certified registered nurse anesthetists who are so employed by such entities shall be deemed to be corresponding health-care professionals to the certified registered nurse anesthetists employed by the facility.

"(iii) The authority of the director to use such additional data under this subparagraph with respect to certified registered nurse anesthetists expires on April 1, 1995."

#### SEC. 304. RATES OF PAY FOR TRANSFERRING NURSES.

(a) **SAVE-PAY AUTHORITY FOR NURSES TRANSFERRING TO ANOTHER FACILITY.**—Section 7452(e) is amended by striking out the period at the end and inserting in lieu thereof ", except that in the case of an employee whose transfer (other than pursuant to a disciplinary action otherwise authorized by law) to another health-care facility is at the request of the Secretary, the Secretary may provide that for at least the first year following such transfer the employee shall be paid at a rate of basic pay up to the rate applicable to such employee before the transfer, if the Secretary determines that such rate of pay is necessary to fill the position. Whenever the Secretary exercises the authority under the preceding sentence relating to the rate of basic pay of a transferred employee, the Secretary shall, in the next annual report required under section 7451(g) of this title, provide justification for doing so."

(b) **CONFORMING AMENDMENT.**—Section 7451(g) is amended by adding at the end the following new paragraph:

"(9) The justification required by section 7452(e) of this title."

38 USC 7451  
note.

#### SEC. 305. NURSING PERSONNEL QUALIFICATION STANDARDS.

(a) **REVISION.**—The Secretary of Veterans Affairs shall conduct a review of the qualification standards used for nursing personnel at Department health-care facilities and the relationship between those standards and the compression of nursing personnel in the existing intermediate and senior grades. Based upon that review, the Secretary shall revise those qualification standards—

(1) to reflect the five grade levels for nursing personnel under the Nurse Schedule, as amended by section 301; and

(2) to reduce the compression of nursing personnel in the existing intermediate and senior grades.

(b) **DEADLINE FOR PRESCRIBING STANDARDS.**—The Secretary shall prescribe revised qualification standards for nursing personnel pursuant to subsection (a) not later than six months after the date of the enactment of this Act.

(c) **REPORT.**—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's findings and actions under this section. The report shall be submitted not later than six months after the date on which revised qualification standards for nursing personnel are prescribed pursuant to subsection (b).

38 USC 7451  
note.

#### SEC. 306. REPORT ON PAY FOR CHIEF NURSE POSITION.

(a) **REVIEW.**—The Secretary of Veterans Affairs shall conduct a review of—

(1) the process for determining the rate of basic pay applicable to the Chief Nurse position at Department of Veterans Affairs health-care facilities; and

(2) the relationship between the rate of such basic pay and the rate of basic pay applicable to nurses in positions

subordinate to the Chief Nurse at the respective Department facilities.

The review shall include an assessment of the adequacy of that process in determining an equitable pay rate for the Chief Nurse position, including an assessment of the accuracy of data collected in the survey process and the difficulties in obtaining accurate data.

(b) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the review and assessment conducted under subsection (a). To the extent that the review discloses difficulties in obtaining accurate data in the survey process with respect to the Chief Nurse position at Department facilities, the Secretary shall include in the report recommendations for corrective action. The Secretary shall also include in the report (1) a listing of the salary differential (expressed as a percentage) between the Chief Nurse at a facility and the highest paid nurse (excluding certified registered nurse anesthetists) serving in a position subordinate to the Chief Nurse, and (2) an analysis of such data. The report shall be submitted not later than 12 months after the date of the enactment of this Act.

#### SEC. 307. REPORT ON PAY COMPRESSION.

Section 7451(g) (as amended by section 304(b)) is further amended by adding at the end the following new paragraph:

"(10) The number of nurses, shown by facility and by grade, who are on pay retention or in the top step of any grade and, with respect to those employees, comprehensive information (by facility) as to whether an extension of the pay grades was sought for these positions, and with respect to each such request for extension, whether such request was granted or denied."

#### SEC. 308. EFFECTIVE DATE.

The amendments made by sections 301, 302, 303, and 304 shall take effect with respect to the first pay period beginning on or after the end of the six-month period beginning on the date of the enactment of this Act.

38 USC 7404  
note.

## TITLE IV—STATE HOME AMENDMENTS

#### SEC. 401. TREATMENT OF EARNINGS OF VETERANS UNDER CERTAIN REHABILITATIVE SERVICES PROGRAMS.

Subsection (f) of section 1718 is amended to read as follows:

"(f)(1) The Secretary may not consider any of the matters stated in paragraph (2) as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.

"(2) Paragraph (1) applies to the following:

"(A) A veteran's participation in an activity carried out under this section.

"(B) A veteran's receipt of a distribution as a result of participation in an activity carried out under this section.

"(C) A veteran's participation in a program of rehabilitative services that (i) is provided as part of the veteran's care furnished by a State home and (ii) is approved by the Secretary

as conforming appropriately to standards for activities carried out under this section.

"(D) A veteran's receipt of payment as a result of participation in a program described in subparagraph (C).

"(3) A distribution of funds made under this section and a payment made to a veteran under a program of rehabilitative services described in paragraph (2)(C) shall be considered for the purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization."

**SEC. 402. PERMANENT AUTHORITY TO MAKE GRANTS TO STATES RELATING TO STATE HOMES.**

Section 8133(a) is amended in the first sentence by striking out "through September 30, 1992".

**SEC. 403. EXTENSION OF PERIOD FOR COMPLETION OF CONDITIONALLY APPROVED APPLICATIONS FOR CONSTRUCTION.**

(a) **EXTENSION OF PERIOD.**—Section 8135(b)(6)(A) is amended by striking out "90 days" and inserting in lieu thereof "180 days".

38 USC 8135  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to projects that are conditionally approved after September 30, 1992.

**SEC. 404. LIMITED PROHIBITION ON OBLIGATION OF FUNDS FOR RESCINDED PROJECTS.**

(a) **PROHIBITION.**—Section 8135(b)(6)(B) is amended by adding at the end the following: "In the event the Secretary rescinds conditional approval of a project under this subparagraph, the Secretary may not further obligate funds for the project during the fiscal year in which the Secretary rescinds such approval."

38 USC 8135  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to rescissions of conditional approval of projects after the date of the enactment of this Act.

**SEC. 405. COMMENCEMENT DATE FOR RECAPTURE PERIOD.**

(a) **COMMENCEMENT DATE.**—Section 8136 is amended by striking out "If, within 20 years after completion of any project" and inserting in lieu thereof "If, within the 20-year period beginning on the date of the approval by the Secretary of the final architectural and engineering inspection of any project".

(b) **TECHNICAL AMENDMENT.**—Such section is further amended by striking out "such facilities cease" and inserting in lieu thereof "the facilities covered by the project cease".

**SEC. 406. COMMENCEMENT DATE FOR PAYMENT OF PER DIEM.**

Section 1741 is amended by adding at the end the following new subsection:

"(e) Subject to section 1743 of this title, the payment of per diem for care furnished in a State home facility shall commence on the date of the completion of the inspection for recognition of the facility under section 1742(a) of this title if the Secretary determines, as a result of that inspection, that the State home meets the standards described in such section."

## **TITLE V—GENERAL HEALTH CARE AND ADMINISTRATION**

### **Subtitle A—General Health**

#### **SEC. 501. CONTRACT HOSPITAL CARE FOR VETERANS WITH PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITIES.**

Section 1703(a)(1) is amended—

- (1) by striking out “or” at the end of subparagraph (A);
- (2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “; or”; and
- (3) by adding at the end the following new subparagraph:  
“(C) a disability of a veteran who has a total disability permanent in nature from a service-connected disability.”.

#### **SEC. 502. PERMANENT AUTHORITY FOR RESPITE CARE PROGRAM.**

Section 1720B is amended by striking out subsection (c).

#### **SEC. 503. EXTENSION OF AUTHORITY TO CONTRACT WITH THE VETERANS MEMORIAL MEDICAL CENTER, REPUBLIC OF THE PHILIPPINES.**

Section 1732(a) is amended by striking out “September 30, 1992” and inserting in lieu thereof “September 30, 1994”.

### **Subtitle B—Preventive Health**

#### **SEC. 511. NATIONAL CENTER FOR PREVENTIVE HEALTH.**

(a) ESTABLISHMENT.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

##### **“§ 7318. National Center for Preventive Health**

“(a)(1) The Chief Medical Director shall establish and operate in the Veterans Health Administration a National Center for Preventive Health (hereinafter in this section referred to as the ‘Center’). The Center shall be located at a Department health care facility.

“(2) The head of the Center is the Director of Preventive Health (hereinafter in this section referred to as the ‘Director’).

“(3) The Chief Medical Director shall provide the Center with such staff and other support as may be necessary for the Center to carry out effectively its functions under this section.

“(b) The purposes of the Center are the following:

“(1) To provide a central office for monitoring and encouraging the activities of the Veterans Health Administration with respect to the provision, evaluation, and improvement of preventive health services.

“(2) To promote the expansion and improvement of clinical, research, and educational activities of the Veterans Health Administration with respect to such services.

“(c) In carrying out the purposes of the Center, the Director shall do the following:

“(1) Develop and maintain current information on clinical activities of the Veterans Health Administration relating to preventive health services, including activities relating to—



"(A) the on-going provision of regularly-furnished services; and

"(B) patient education and screening programs carried out throughout the Administration.

"(2) Develop and maintain detailed current information on research activities of the Veterans Health Administration relating to preventive health services.

"(3) In order to encourage the effective provision of preventive health services by Veterans Health Administration personnel—

"(A) ensure the dissemination to such personnel of any appropriate information on such services that is derived from research carried out by the Administration; and

"(B) acquire and ensure the dissemination to such personnel of any appropriate information on research and clinical practices relating to such services that are carried out by researchers, clinicians, and educators who are not affiliated with the Administration.

"(4) Facilitate the optimal use of the unique resources of the Department for cooperative research into health outcomes by initiating recommendations, and responding to requests of the Chief Medical Director and the Director of the Medical and Prosthetic Research Service, for such research into preventive health services.

"(5) Provide advisory services to personnel of Department health-care facilities with respect to the planning or furnishing of preventive health services by such personnel.

Appropriation  
authorization.

"(d) There is authorized to be appropriated \$1,500,000 to the Medical Care General and Special Fund of the Department of Veterans Affairs for each fiscal year for the purpose of permitting the National Center for Preventive Health to carry out research, clinical, educational, and administrative activities under this section. Such activities shall be considered to be part of the operation of health-care facilities of the Department without regard to the location at which such activities are carried out.

"(e) In this section, the term 'preventive health services' has the meaning given such term in section 1701(9) of this title."

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating section 7317 the following new item:

"7318. National Center for Preventive Health."

(b) DIRECTOR OF CENTER.—(1) Subsection (a) of section 7306 is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph (7):

"(7) The Director of the National Center for Preventive Health, who shall be responsible to the Chief Medical Director for the operation of the Center."

(2) Subsection (c) of such section is amended in the second sentence by striking out "and (4)" and inserting in lieu thereof "(4), and (7)".

(c) SELECTION OF FACILITY AT WHICH CENTER TO BE ESTABLISHED.—In order to establish the National Center for Preventive Health pursuant to section 7318 of title 38, United States Code, as added by subsection (a), the Chief Medical Director of the Depart-

38 USC 7318  
note.

ment of Veterans Affairs shall solicit proposals from Department health care facilities to establish the center. The Chief Medical Director shall establish such center at the facility or facilities which the Chief Medical Director determines, on the basis of a review and analysis of such proposals, would most effectively carry out the purposes set forth in subsection (b) of such section.

**SEC. 512. ANNUAL REPORT ON PREVENTIVE HEALTH SERVICES.**

(a) **ANNUAL REPORT.**—Chapter 17 is amended by inserting after section 1703 the following new section:

**“§ 1704. Preventive health services: annual report**

“Not later than October 31 each year, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on preventive health services. Each such report shall include the following:

“(1) A description of the programs and activities of the Department with respect to preventive health services during the preceding fiscal year, including a description of the following:

“(A) The programs conducted by the Department—  
“(i) to educate veterans with respect to health promotion and disease prevention; and

“(ii) to provide veterans with preventive health screenings and other clinical services, with such description setting forth the types of resources used by the Department to conduct such screenings and services and the number of veterans reached by such screenings and services.

“(B) The means by which the Secretary addressed the specific preventive health services needs of particular groups of veterans (including veterans with service-connected disabilities, elderly veterans, low-income veterans, women veterans, institutionalized veterans, and veterans who are at risk for mental illness).

“(C) The manner in which the provision of such services was coordinated with the activities of the Medical and Prosthetic Research Service of the Department and the National Center for Preventive Health.

“(D) The manner in which the provision of such services was integrated into training programs of the Department, including initial and continuing medical training of medical students, residents, and Department staff.

“(E) The manner in which the Department participated in cooperative preventive health efforts with other governmental and private entities (including State and local health promotion offices and not-for-profit organizations).

“(F) The specific research carried out by the Department with respect to the long-term relationships among screening activities, treatment, and morbidity and mortality outcomes.

“(G) The cost effectiveness of such programs and activities, including an explanation of the means by which the costs and benefits (including the quality of life of veterans who participate in such programs and activities) of such programs and activities are measured.

"(2) A specific description of research activities on preventive health services carried out during that period using employees, funds, equipment, office space, or other support services of the Department, with such description setting forth—

"(A) the source of funds for those activities;

"(B) the articles or publications (including the authors of the articles and publications) in which those activities are described;

"(C) the Federal, State, or local governmental entity or private entity, if any, with which such activities were carried out; and

"(D) the clinical, research, or staff education projects for which funding applications were submitted (including the source of the funds applied for) and upon which a decision is pending or was denied.

"(3) An accounting of the expenditure of funds during that period by the National Center for Preventive Health under section 7318 of this title."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1703 the following new item:

"1704. Preventive health services: annual report."

#### SEC. 513. PREVENTIVE HEALTH SERVICES.

(a) IN GENERAL.—The text of section 1762 is transferred to the end of section 1701, redesignated as paragraph (9), and amended—

(1) by striking out "For the purposes of this subchapter, the term 'preventive health-care services' means" and inserting in lieu thereof "The term 'preventive health services' means"; and

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), and (K), respectively.

(b) CONFORMING AMENDMENT.—Section 1701(6)(A)(i) is amended by striking out "preventive health-care services as defined in section 1762 of this title," and inserting in lieu thereof "preventive health services,".

#### SEC. 514. REPEAL OF PILOT PROGRAM.

(a) REPEAL.—Subchapter VII of chapter 17 is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by striking out the items relating to subchapter VII (including the items relating to the sections of that subchapter).

## Subtitle C—Health Care Administration and Personnel

#### SEC. 531. GERIATRIC RESEARCH, EDUCATION, AND CLINICAL CENTERS.

Section 7314 is amended—

(1) in subsection (c), by inserting after "unless" in the matter preceding paragraph (1) the following: "the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility

as a location for a new center under subsection (a) is among those proposals which have met the highest competitive standards of scientific and clinical merit, and<sup>38</sup>;

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(3) by inserting after subsection (c) the following new subsection (d):

"(d)(1) In order to provide advice to assist the Chief Medical Director and the Secretary to carry out their responsibilities under this section, the Assistant Chief Medical Director described in section 7306(b)(3) of this title shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of new centers under this section.

"(2) The membership of the panel shall consist of experts in the fields of geriatric and gerontological research, education, and clinical care. Members of the panel shall serve as consultants to the Department for a period of no longer than six months.

"(3) The panel shall review each proposal submitted to the panel by the Assistant Chief Medical Director and shall submit its views on the relative scientific and clinical merit of each such proposal to the Assistant Chief Medical Director.

"(4) The panel shall not be subject to the Federal Advisory Committee Act."

**SEC. 522. EXTENSION OF AUTHORITY TO WAIVE CERTAIN LIMITATIONS APPLICABLE TO RECEIPT OF RETIREMENT PAY BY NURSES.**

Section 7426(c) is amended by striking out "September 30, 1992" and inserting in lieu thereof "December 31, 1994".

**SEC. 523. HEALTH PROFESSIONALS EDUCATION PROGRAMS.**

(a) **EXTENSION OF HEALTH SCHOLARSHIP PROGRAM.**—Section 7618 is amended by striking out "September 30, 1992" and inserting in lieu thereof "December 31, 1995".

(b) **HEALTH PROFESSIONALS.**—Notwithstanding any other provision of law, the Secretary of Veterans Affairs may not provide payments to health-care professional employees of the Department of Veterans Affairs for payment of tuition loans.

38 USC 7601  
note.

**SEC. 524. REAL PROPERTY AT TEMPLE JUNIOR COLLEGE, TEMPLE, TEXAS.**

(a) **REMOVAL OF RESTRICTIONS ON USE OF PREVIOUSLY CONVEYED LAND.**—Subject to subsection (b), the Secretary of Veterans Affairs shall release all restrictions and conditions (including a right of reverter) imposed in a quitclaim deed executed by the Administrator of Veterans Affairs on March 8, 1968, pursuant to Public Law 90-197 (81 Stat. 582; December 14, 1967), in which the United States, acting through the Administrator of Veterans Affairs, conveyed a tract of land consisting of 73 acres, more or less, to Temple Junior College, Temple, Texas.

(b) **REQUIREMENT FOR PAYMENT.**—Subsection (a) shall be effective upon the payment to the Secretary of Veterans Affairs of such monetary consideration as the Secretary determines to be appropriate. Any amount received by the Secretary pursuant to this subsection shall be deposited in the general fund of the Treasury.

(c) **EXECUTION OF LEGAL INSTRUMENTS.**—The Secretary of Veterans Affairs shall execute such legal documents as necessary to carry out subsection (a). The Secretary may include in such legal documents such terms, conditions, reservations, easements, and restrictions (other than those released pursuant to subsection (a)) as the Secretary considers necessary to protect the interest of the United States.

'88 USC 1710  
note.

**SEC. 525. DEMONSTRATION PROJECT TO EVALUATE INSTALLATION OF TELEPHONES FOR PATIENT USE AT DEPARTMENT HEALTH-CARE FACILITIES.**

(a) **DEMONSTRATION PROJECT.**—The Secretary of Veterans Affairs shall carry out a demonstration project to evaluate—

(1) the feasibility and desirability of (A) providing telephone service in patient rooms in Department of Veterans Affairs health-care facilities which do not currently provide such service, and (B) the use of telephones by the patients of such health-care facilities; and

(2) the relative feasibility and cost-effectiveness of a variety of options for providing such service.

(b) **PROJECT ACTIVITIES.**—(1) In carrying out the demonstration project under this section, the Secretary shall, at an appropriate number (as determined by the Secretary) of health care facilities, provide patients reasonable access to telephone service in patients' rooms to the extent feasible, and subject to paragraph (2).

(2) The Secretary shall ensure that patients who use such telephones bear financial responsibility for the cost of any long-distance telephone calls made during such use.

(c) **PROJECT EVALUATION.**—In carrying out the evaluation under subsection (a), the Secretary shall determine—

(1) the cost of the installation, use, and maintenance of such telephones, including—

(A) the amount of any savings which accrue to the facility by reason of such installation and use (including the amount of any savings that may result from any decrease in the amount of assistance in using telephones that the staff of the facility would otherwise provide to patients); and

(B) any costs that result from providing special telephones or other special equipment to facilitate the use of telephones by disabled veterans; and

(2) the effect of the use of such telephones on the therapeutic course of veterans who receive care at the facility; and

(3) the relative feasibility and cost effectiveness of a range of options for providing access to telephone service, including—

(A) the expenditure of appropriated funds;

(B) the receipt of donated funds, equipment, and services; and

(C) the procuring of equipment and services by the Veterans Canteen Service.

(d) **REPORT.**—Not later than September 30, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the demonstration project. The report shall contain the following:

(1) The determinations of the Secretary under subsection (c).



(2) An assessment by the Secretary of the feasibility and desirability of providing telephones for patients in other health-care facilities of the Department.

(3) The experience of the Secretary in using, and an assessment by the Secretary of the feasibility and cost effectiveness of, alternative arrangements to the expenditure of appropriated funds for securing telephone service for patients in health-care facilities of the Department.

(4) Any additional information and recommendations with respect to the provision and use of patient telephones at Department health-care facilities as the Secretary considers appropriate.

**SEC. 526. USE OF TOBACCO PRODUCTS IN DEPARTMENT FACILITIES.**

38 USC 1715  
note.

(a) **IN GENERAL.**—The Secretary of Veterans Affairs shall take appropriate actions to ensure that, consistent with medical requirements and limitations, each facility of the Department described in subsection (b)—

(1) establishes and maintains—

(A) a suitable indoor area in which patients or residents may smoke and which is ventilated in a manner that, to the maximum extent feasible, prevents smoke from entering other areas of the facility; or

(B) an area in a building that—

(i) is detached from the facility;

(ii) is accessible to patients or residents of the facility; and

(iii) has appropriate heating and air conditioning; and

(2) provides access to an area established and maintained under paragraph (1), consistent with medical requirements and limitations, for patients or residents of the facility who are receiving care or services and who desire to smoke tobacco products.

(b) **COVERED FACILITIES.**—A Department facility referred to in subsection (a) is any Department of Veterans Affairs medical center, nursing home, or domiciliary care facility.

(c) **REPORTS.**—(1) Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility of the establishment and maintenance of areas for smoking in Department facilities under this section. The report shall include information on—

(A) the cost of, and a proposed schedule for, the establishment of such an area at each Department facility covered by this section;

(B) the extent to which the ventilating system of each facility is adequate to ensure that use of the area for smoking does not result in health problems for other patients or residents of the facility; and

(C) the effect of the establishment and maintenance of an area for smoking in each facility on the accreditation score issued for the facility by the Joint Commission on the Accreditation of Health Organizations.

(2) Not later than 120 days after the effective date of this section, the Secretary shall submit to the committees referred to in paragraph (1) a report on the implementation of this section.

The report shall include a description of the actions taken at each covered facility to ensure compliance with this section.

(d) **EFFECTIVE DATE.**—The requirement to establish and maintain areas for smoking under subsection (a) shall take effect 60 days after the date on which the Comptroller General submits to the committees referred to in subsection (c)(1) that report required under that subsection.

## **TITLE VI—DRUG PRICING AGREEMENTS**

### **SEC. 601. TREATMENT OF PRESCRIPTION DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS OR PURCHASED BY CERTAIN CLINICS AND HOSPITALS.**

(a) **EXCLUSION OF PRICES FROM CALCULATION OF BEST PRICES FOR MEDICAID REBATE AGREEMENTS.**—Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(C)) is amended by striking “(excluding)” and inserting “(excluding any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in subsection (a)(5)(B), any prices charged under the Federal Supply Schedule of the General Services Administration, or any prices used under a State pharmaceutical assistance program, and excluding”.

(b) **AGREEMENTS REQUIRED TO RECEIVE PAYMENT.**—

(1) **IN GENERAL.**—The first sentence of section 1927(a)(1) of such Act (42 U.S.C. 1396r-8(a)(1)) is amended by striking “manufacturer.” and inserting “manufacturer), and must meet the requirements of paragraph (5) (with respect to drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992) and paragraph (6).”.

(2) **AGREEMENTS DESCRIBED.**—Section 1927(a) of such Act (42 U.S.C. 1396r-8(a)) is amended by adding at the end the following new paragraphs:

“(5) **LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.**—

“(A) **AGREEMENT WITH SECRETARY.**—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of this paragraph.

“(B) **COVERED ENTITY DEFINED.**—In this subsection, the term ‘covered entity’ means an entity described in section 340B(a)(4) of the Public Health Service Act.

“(C) **ESTABLISHMENT OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.**—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(i) ENTITIES.—Each covered entity shall inform the single State agency under section 1902(a)(5) when it is seeking reimbursement from the State plan for medical assistance described in section 1905(a)(12) with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(ii) STATE AGENCY.—Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

"(D) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(E) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Public Health Service Act (as in effect immediately after the enactment of this paragraph) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of this paragraph.

"(6) REQUIREMENTS RELATING TO MASTER AGREEMENTS FOR DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—A manufacturer meets the requirements of this paragraph if the manufacturer complies with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section.

"(B) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether a master agreement described in subparagraph (A) meets the requirements of section 8126 of title 38, United States Code, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(C) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 8126 of title 38, United States Code (as in effect immediately after the enactment of this paragraph) and would have entered

into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of this paragraph.”.

(3) **CONFIDENTIALITY OF INFORMATION.**—Section 1927(b)(3)(D) of such Act (42 U.S.C. 1396r-8(b)(3)(D)) is amended—

(A) by striking “this paragraph” and inserting “this paragraph or under an agreement with the Secretary of Veterans Affairs described in subsection (a)(6)(A)(ii)”;

(B) by striking “Secretary” each place it appears and inserting “Secretary or the Secretary of Veterans Affairs”; and

(C) by striking “except” and all that follows through the period and inserting: “except—

“(i) as the Secretary determines to be necessary to carry out this section,

“(ii) to permit the Comptroller General to review the information provided, and

“(iii) to permit the Director of the Congressional Budget Office to review the information provided.”.

(4) **TERMINATION OF REBATE AGREEMENTS.**—Section 1927(b)(4)(B) of such Act (42 U.S.C. 1396r-8(b)(4)(B)) is amended—

(i) in clause (ii), by striking “such period” and inserting “the calendar quarter beginning at least 60 days”,

(ii) in clause (ii), by striking “of the notice” and all through “the agreement).” and inserting “the manufacturer provides notice to the Secretary.”, and

(iii) by adding at the end the following new clauses:

“(iv) **NOTICE TO STATES.**—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

“(v) **APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.**—The provisions of this subparagraph shall apply to the terminations of agreements described in section 340B(a)(1) of the Public Health Service Act and master agreements described in section 8126(a) of title 38, United States Code.”.

(c) **BUDGET NEUTRALITY ADJUSTMENT.**—Section 1927(c)(1)(B) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(B)) is amended—

(1) by striking “January 1, 1993,” and inserting “October 1, 1992,”;

(2) by striking “and” at the end of clause (i); and

(3) by striking clause (ii) and inserting the following:

“(ii) for quarters (or other periods) beginning after September 30, 1992, and before January 1, 1994, the greater of—

“(I) 15.7 percent of the average manufacturer price for the drug, or

“(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug;

"(iii) for quarters (or other periods) beginning after December 31, 1993, and before January 1, 1995, the greater of—

"(I) 15.4 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug;

"(iv) for quarters (or other periods) beginning after December 31, 1994, and before January 1, 1996, the greater of—

"(I) 15.2 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug; and

"(v) for quarters (or other periods) beginning after December 31, 1995, the greater of—

"(I) 15.1 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug."

(d) REPORTS ON BEST PRICE CHANGES AND PAYMENT OF REBATES.—

42 USC 1396r-8  
note.

(1) IN GENERAL.—Not later than 90 days after the expiration of each calendar quarter that begins on or after October 1, 1992, and ends on or before December 31, 1995, the Secretary of Health and Human Services shall submit a report to Congress that contains the following information relating to prescription drugs dispensed in the quarter (subject to paragraph (2)):

(A) With respect to single source drugs and innovator multiple source drugs (as such terms are defined in section 1927(k)(7) of the Social Security Act)—

(i) the percentage of such drugs whose best price (as reported to the Secretary under section 1927(b) of the Social Security Act) increased compared to the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(ii) the percentage of such drugs whose best price (as so reported) decreased compared to the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(iii) the percentage of such drugs whose best price (as so reported) was the same as the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(iv) the median and mean percentage increase (or decrease) in the best price of such single source drugs (as so reported) compared to the best price during



the previous calendar quarter, unweighted and weighted (in the case of the mean percentage increase or decrease) by the dollar volume of drugs dispensed;

(v) the median and mean percentage increase (or decrease) in the best price of such innovator multiple source drugs (as so reported) compared to the best price during the previous calendar quarter, unweighted and weighted (in the case of the mean percentage increase or decrease) by the dollar volume of drugs dispensed; and

(vi) the median and mean percentage increase (or decrease) in the best price of all such drugs (as so reported) compared to the best price during the previous calendar quarter, unweighted and weighted (in the case of the mean percentage increase or decrease) by the dollar volume of drugs dispensed.

(B) With respect to all drugs for which manufacturers are required to pay rebates under section 1927(c) of the Social Security Act, the Secretary's estimate, on a State-by-State and a national aggregate basis, of—

(i) the total amount of all rebates paid under such section during the quarter, broken down by the portions of such total amount attributable to rebates described in paragraphs (1), (2), and (3) of such section;

(ii) the percentages of such total amount attributable to rebates described in paragraphs (1), (2), and (3) of such section; and

(iii) the amount of the portion of such total amount attributable to the rebate described in paragraph (1) of such section that is solely attributable to the application of subclause (II) of clause (i), (ii), (iii), (iv), or (v) of such paragraph.

(2) LIMITATION ON DRUGS SUBJECT TO REPORT.—No report submitted under paragraph (1) shall include any information relating to any prescription drug unless the Secretary finds that expenditures for the drug are significant expenditures under the medicaid program. In the previous sentence, expenditures for a drug are "significant" if the drug was one of the 1,000 drugs for which the greatest amount of the Federal financial assistance attributable to prescription drugs was paid under section 1903(a) of the Social Security Act during calendar year 1991.

(3) SPECIAL RULE FOR INITIAL REPORT.—For purposes of the first report required to be submitted under paragraph (1)—

(A) the Secretary shall submit the report not later than May 1, 1993; and

(B) the information contained in the report shall include information on prescription drugs dispensed during each calendar quarter that began on or after January 1, 1991, and ended on or before December 31, 1992.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments to State plans under title XIX of the Social Security Act for calendar quarters (or periods) beginning on or after January 1, 1993 (without regard to whether or not regulations to carry out such amendments have been promulgated by such date).

**SEC. 602. LIMITATIONS ON PRICES OF DRUGS PURCHASED BY CERTAIN CLINICS AND HOSPITALS.**

(a) **IN GENERAL.**—Part D of title III of the Public Health Service Act is amended by adding the following subpart:

**“Subpart VII—Drug Pricing Agreements**

**“LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES**

**“SEC. 340B. (a) REQUIREMENTS FOR AGREEMENT WITH SECRETARY.**— 42 USC 256b.

**“(1) IN GENERAL.**—The Secretary shall enter into an agreement with each manufacturer of covered drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered drugs (other than drugs described in paragraph (3)) purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of this section, does not exceed an amount equal to the average manufacturer price for the drug under title XIX of the Social Security Act in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2).

**“(2) REBATE PERCENTAGE DEFINED.**—

**“(A) IN GENERAL.**—For a covered outpatient drug purchased in a calendar quarter, the ‘rebate percentage’ is the amount (expressed as a percentage) equal to—

**“(i)** the average total rebate required under section 1927(c) of the Social Security Act with respect to the drug (for a unit of the dosage form and strength involved) during the preceding calendar quarter; divided by

**“(ii)** the average manufacturer price for such a unit of the drug during such quarter.

**“(B) OVER THE COUNTER DRUGS.**—

**“(i) IN GENERAL.**—For purposes of subparagraph (A), in the case of over the counter drugs, the ‘rebate percentage’ shall be determined as if the rebate required under section 1927(c) of the Social Security Act is based on the applicable percentage provided under section 1927(c)(4) of such Act.

**“(ii) DEFINITION.**—The term ‘over the counter drug’ means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law).

**“(3) DRUGS PROVIDED UNDER STATE MEDICAID PLANS.**—Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for medical assistance under title XIX of the Social Security Act.

**“(4) COVERED ENTITY DEFINED.**—In this section, the term ‘covered entity’ means an entity that meets the requirements described in paragraph (5) and is one of the following:

**“(A)** A Federally-qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act).

**“(B)** An entity receiving a grant under section 340A.

"(C) A family planning project receiving a grant or contract under section 1001.

"(D) An entity receiving a grant under subpart II of part C of title XXVI (relating to categorical grants for outpatient early intervention services for HIV disease).

"(E) A State-operated AIDS drug purchasing assistance program receiving financial assistance under title XXVI.

"(F) A black lung clinic receiving funds under section 427(a) of the Black Lung Benefits Act.

"(G) A comprehensive hemophilia diagnostic treatment center receiving a grant under section 501(a)(2) of the Social Security Act.

"(H) A Native Hawaiian Health Center receiving funds under the Native Hawaiian Health Care Act of 1988.

"(I) An urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.

"(J) Any entity receiving assistance under title XXVI (other than a State or unit of local government or an entity described in subparagraph (D)), but only if the entity is certified by the Secretary pursuant to paragraph (7).

"(K) An entity receiving funds under section 318 (relating to treatment of sexually transmitted diseases) or section 317(j)(2) (relating to treatment of tuberculosis) through a State or unit of local government, but only if the entity is certified by the Secretary pursuant to paragraph (7).

"(L) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that—

"(i) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan under this title;

"(ii) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act; and

"(iii) does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement.

"(5) REQUIREMENTS FOR COVERED ENTITIES.—

"(A) PROHIBITING DUPLICATE DISCOUNTS OR REBATES.—

"(i) IN GENERAL.—A covered entity shall not request payment under title XIX of the Social Security Act for medical assistance described in section 1905(a)(12) of such Act with respect to a drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act.

"(ii) ESTABLISHMENT OF MECHANISM.—The Secretary shall establish a mechanism to ensure that cov-

ered entities comply with clause (i). If the Secretary does not establish a mechanism within 12 months under the previous sentence, the requirements of section 1927(a)(5)(C) of the Social Security Act shall apply.

“(B) PROHIBITING RESALE OF DRUGS.—With respect to any covered outpatient drug that is subject to an agreement under this subsection, a covered entity shall not resell or otherwise transfer the drug to a person who is not a patient of the entity.

“(C) AUDITING.—A covered entity shall permit the Secretary and the manufacturer of a covered outpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in subparagraphs (A) or (B) with respect to drugs of the manufacturer.

“(D) ADDITIONAL SANCTION FOR NONCOMPLIANCE.—If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in subparagraphs (A) or (B), the covered entity shall be liable to the manufacturer of the covered outpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the entity and the manufacturer under this paragraph.

“(6) TREATMENT OF DISTINCT UNITS OF HOSPITALS.—In the case of a covered entity that is a distinct part of a hospital, the hospital shall not be considered a covered entity under this paragraph unless the hospital is otherwise a covered entity under this subsection.

“(7) CERTIFICATION OF CERTAIN COVERED ENTITIES.—

“(A) DEVELOPMENT OF PROCESS.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall develop and implement a process for the certification of entities described in subparagraphs (J) and (K) of paragraph (4).

“(B) INCLUSION OF PURCHASE INFORMATION.—The process developed under subparagraph (A) shall include a requirement that an entity applying for certification under this paragraph submit information to the Secretary concerning the amount such entity expended for covered outpatient drugs in the preceding year so as to assist the Secretary in evaluating the validity of the entity's subsequent purchases of covered outpatient drugs at discounted prices.

“(C) CRITERIA.—The Secretary shall make available to all manufacturers of covered outpatient drugs a description of the criteria for certification under this paragraph.

“(D) LIST OF PURCHASERS AND DISPENSERS.—The certification process developed by the Secretary under subparagraph (A) shall include procedures under which each State shall, not later than 30 days after the submission of the descriptions under subparagraph (C), prepare and submit a report to the Secretary that contains a list of entities

described in subparagraphs (J) and (K) of paragraph (4) that are located in the State.

"(E) RECERTIFICATION.—The Secretary shall require the recertification of entities certified pursuant to this paragraph on a not more frequent than annual basis, and shall require that such entities submit information to the Secretary to permit the Secretary to evaluate the validity of subsequent purchases by such entities in the same manner as that required under subparagraph (B).

"(8) DEVELOPMENT OF PRIME VENDOR PROGRAM.—The Secretary shall establish a prime vendor program under which covered entities may enter into contracts with prime vendors for the distribution of covered outpatient drugs. If a covered entity obtains drugs directly from a manufacturer, the manufacturer shall be responsible for the costs of distribution.

"(9) NOTICE TO MANUFACTURERS.—The Secretary shall notify manufacturers of covered outpatient drugs and single State agencies under section 1902(a)(5) of the Social Security Act of the identities of covered entities under this paragraph, and of entities that no longer meet the requirements of paragraph (5) or that are no longer certified pursuant to paragraph (7).

"(10) NO PROHIBITION ON LARGER DISCOUNT.—Nothing in this subsection shall prohibit a manufacturer from charging a price for a drug that is lower than the maximum price that may be charged under paragraph (1).

"(b) OTHER DEFINITIONS.—In this section, the terms 'average manufacturer price', 'covered outpatient drug', and 'manufacturer' have the meaning given such terms in section 1927(k) of the Social Security Act.

"(c) REFERENCES TO SOCIAL SECURITY ACT.—Any reference in this section to a provision of the Social Security Act shall be deemed to be a reference to the provision as in effect on the date of the enactment of this section.

"(d) COMPLIANCE WITH REQUIREMENTS.—A manufacturer is deemed to meet the requirements of subsection (a) if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of this section (as in effect immediately after the enactment of the Veterans Health Care Act of 1992), as applied by the Secretary, and would have entered into an agreement under this section (as such section was in effect at such time), but for a legislative change in this section (or the application of this section) after the date of the enactment of such Act."

(b) STUDY OF TREATMENT OF CERTAIN CLINICS AS COVERED ENTITIES ELIGIBLE FOR PRESCRIPTION DRUG DISCOUNTS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the feasibility and desirability of including entities described in paragraph (3) as covered entities eligible for limitations on the prices of covered outpatient drugs under section 340B(a) of the Public Health Service Act (as added by subsection (a)).

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report—



(A) a description of the entities that are the subject of the study;

(B) an analysis of the extent to which such entities procure prescription drugs; and

(C) an analysis of the impact of the inclusion of such entities as covered entities under section 340B(a) of the Public Health Service Act on the quality of care provided to and the health status of the patients of such entities.

(3) ENTITIES DESCRIBED.—An entity described in this paragraph is an entity—

(A) receiving funds from a State for the provision of mental health or substance abuse treatment services under subparts I or II of part B of title XIX of the Public Health Service Act or under title V of such Act; or

(B) receiving funds from a State under title V of the Social Security Act for the provision of maternal and child health services that are furnished on an outpatient basis (other than an entity described in section 340B(a)(4)(G) of the Public Health Service Act).

**SEC. 603. LIMITATION ON PRICES OF DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.**

(a) AGREEMENTS WITH SECRETARY OF VETERANS AFFAIRS.—

(1) Subchapter II of chapter 81 is amended by adding at the end the following new section:

**“§ 8126. Limitation on prices of drugs procured by Department and certain other Federal agencies**

“(a) Each manufacturer of covered drugs shall enter into a master agreement with the Secretary under which—

“(1) beginning January 1, 1993, the manufacturer shall make available for procurement on the Federal Supply Schedule of the General Services Administration each covered drug of the manufacturer;

“(2) with respect to each covered drug of the manufacturer procured by a Federal agency described in subsection (b) on or after January 1, 1993, that is purchased under depot contracting systems or listed on the Federal Supply Schedule, the manufacturer has entered into and has in effect a pharmaceutical pricing agreement with the Secretary (or the Federal agency involved, if the Secretary delegates to the Federal agency the authority to enter into such a pharmaceutical pricing agreement) under which the price charged during the one-year period beginning on the date on which the agreement takes effect may not exceed 76 percent of the non-Federal average manufacturer price (less the amount of any additional discount required under subsection (c)) during the one-year period ending one month before such date (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period are not available, during such period preceding such date as the Secretary considers appropriate), except that such price may nominally exceed such amount if found by the Secretary to be in the best interests of the Department or such Federal agencies;

"(3) with respect to each covered drug of the manufacturer procured by a State home receiving funds under section 1741 of this title, the price charged may not exceed the price charged under the Federal Supply Schedule at the time the drug is procured; and

"(4) unless the manufacturer meets the requirements of paragraphs (1), (2), and (3), the manufacturer may not receive payment for the purchase of drugs or biologicals from—

"(A) a State plan under title XIX of the Social Security Act, except as authorized under section 1927(a)(3) of such Act,

"(B) any Federal agency described in subsection (b), or

"(C) any entity that receives funds under the Public Health Service Act.

"(b) The Federal agencies described in this subsection are as follows:

"(1) The Department.

"(2) The Department of Defense.

"(3) The Public Health Service, including the Indian Health Service.

"(c) With respect to any covered drug the price of which is determined in accordance with a pharmaceutical pricing agreement entered into pursuant to subsection (a)(2), for calendar quarters beginning on or after January 1, 1993, the manufacturer shall provide a discount in an amount equal to the amount by which the change in non-Federal price exceeds the amount equal to—

"(1) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the last day of the month preceding the month during which the contract for the covered drug goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the month during which the contract goes into effect as the Secretary considers appropriate); increased by

"(2) the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last month of the period described in paragraph (1) and the last month preceding the month during which the contract goes into effect for which Consumer Price Index data is available.

"(d) In the case of a covered drug of a manufacturer that has entered into a multi-year contract with the Secretary under subsection (a)(2) for the procurement of the drug—

"(1) during any one-year period that follows the first year for which the contract is in effect, the price charged may not exceed the price charged during the preceding one-year period, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last months of such one-year periods for which Consumer Price Index data is available; and

"(2) in applying subsection (c) to determine the amount of the discount provided with respect to the drug during a year that follows the first year for which the contract is in effect, any reference in such subsection to 'the month during which the contract goes into effect' shall be considered a reference to the first month of such following year.

"(e)(1) The manufacturer of any covered drug the price of which is determined in accordance with a pharmaceutical pricing agreement entered into pursuant to subsection (a)(2) shall—

Reports.

"(A) not later than 30 days after the first day of the last quarter that begins before the agreement takes effect (or, in the case of an agreement that takes effect on January 1, 1993, not later than 30 days after the date of the enactment of this section), report to the Secretary the non-Federal average manufacturer price for the drug during the 1-year period that ends on the last day of the previous quarter; and

"(B) not later than 30 days after the last day of each quarter for which the agreement is in effect, report to the Secretary the non-Federal average manufacturer price for the drug during such quarter.

"(2) The provisions of subparagraphs (B) and (C) of section 1927(b)(3) of the Social Security Act shall apply to drugs described in paragraph (1) and the Secretary in the same manner as such provisions apply to covered outpatient drugs and the Secretary of Health and Human Services under such subparagraphs, except that references in such subparagraphs to prices or information reported or required under 'subparagraph (A)' shall be deemed to refer to information reported under paragraph (1).

"(3) In order to determine the accuracy of a drug price that is reported to the Secretary under paragraph (1), the Secretary may audit the relevant records of the manufacturer or of any wholesaler that distributes the drug, and may delegate the authority to audit such records to the appropriate Federal agency described in subsection (b).

"(4) Any information contained in a report submitted to the Secretary under paragraph (1) or obtained by the Secretary through any audit conducted under paragraph (3) shall remain confidential, except as the Secretary determines necessary to carry out this section and to permit the Comptroller General and the Director of the Congressional Budget Office to review the information provided.

Privacy.

"(f) The Secretary shall supply to the Secretary of Health and Human Services—

"(1) upon the execution or termination of any master agreement, the name of the manufacturer, and

"(2) on a quarterly basis, a list of manufacturers who have entered into master agreements under this section, and

"(g)(1) Any reference in this section to a provision of the Social Security Act shall be deemed to be a reference to the provision as in effect on the date of the enactment of this section.

"(2) A manufacturer is deemed to meet the requirements of subsection (a) if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of this section (as in effect immediately after the enactment of this section), and would have entered into an agreement under this section (as such section was in effect at such time), but for a legislative change in this section after the date of the enactment of this section.

"(h) In this section:

"(1) The term 'change in non-Federal price' means, with respect to a covered drug that is subject to an agreement under this section, an amount equal to—

"(A) the non-Federal average manufacturer price of the drug during the 3-month period that ends with the month preceding the month during which a contract goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period as the Secretary considers appropriate); minus

"(B) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the end of the period described in subparagraph (A) (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the period described in subparagraph (A) as the Secretary considers appropriate).

"(2) The term 'covered drug' means—

"(A) a drug described in section 1927(k)(7)(A)(ii) of the Social Security Act, or that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act;

"(B) a drug described in section 1927(k)(7)(A)(iv) of the Social Security Act, or that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act;

"(C) any biological product identified under section 600.3 of title 21, Code of Federal Regulations; or

"(D) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3) The term 'depot' means a centralized commodity management system through which covered drugs procured by an agency of the Federal Government are—

"(A) received, stored, and delivered through—

"(i) a federally owned and operated warehouse system, or

"(ii) a commercial entity operating under contract with such agency; or

"(B) delivered directly from the commercial source to the entity using such covered drugs.

"(4) The term 'manufacturer' means any entity which is engaged in—

"(A) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(B) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(5) The term 'non-Federal average manufacturer price' means, with respect to a covered drug and a period of time (as determined by the Secretary), the weighted average price of a single form and dosage unit of the drug that is paid by wholesalers in the United States to the manufacturer, taking

into account any cash discounts or similar price reductions during that period, but not taking into account—

“(A) any prices paid by the Federal Government; or

“(B) any prices found by the Secretary to be merely nominal in amount.

“(6) The term ‘weighted average price’ means, with respect to a covered drug and a period of time (as determined by the Secretary) an amount equal to—

“(A) the sum of the products of the average price per package unit of each quantity of the drug sold during the period and the number of package units of the drug sold during the period; divided by

“(B) the total number of package units of the drug sold during the period.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8125 the following new item:

“8126. Limitation on prices of drugs procured by Department.”

## TITLE VII—PERSIAN GULF WAR VETERANS' HEALTH STATUS

Persian Gulf  
War Veterans'  
Health Status  
Act,  
38 USC 527  
note.

### SEC. 701. SHORT TITLE.

This title may be cited as the “Persian Gulf War Veterans' Health Status Act”.

### SEC. 702. PERSIAN GULF WAR VETERANS HEALTH REGISTRY.

(a) ESTABLISHMENT OF REGISTRY.—The Secretary of Veterans Affairs shall establish and maintain a special record to be known as the “Persian Gulf War Veterans Health Registry” (in this section referred to as the “Registry”).

(b) CONTENTS OF REGISTRY.—Except as provided in subsection (c), the Registry shall include the following information:

(1) A list containing the name of each individual who served as a member of the Armed Forces in the Persian Gulf theater of operations during the Persian Gulf War and who—

(A) applies for care or services from the Department of Veterans Affairs under chapter 17 of title 38, United States Code;

(B) files a claim for compensation under chapter 11 of such title on the basis of any disability which may be associated with such service;

(C) dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under chapter 13 of such title on the basis of such service;

(D) requests from the Department a health examination under section 703; or

(E) receives from the Department of Defense a health examination similar to the health examination referred to in subparagraph (D) and requests inclusion in the Registry.

(2) Relevant medical data relating to the health status of, and other information that the Secretary considers relevant and appropriate with respect to, each individual described in paragraph (1) who—



(A) grants to the Secretary permission to include such information in the Registry; or

(B) at the time the individual is listed in the Registry, is deceased.

(c) **INDIVIDUALS SUBMITTING CLAIMS OR MAKING REQUESTS BEFORE DATE OF ENACTMENT.**—If in the case of an individual described in subsection (b)(1) the application, claim, or request referred to in such subsection was submitted, filed, or made, before the date of the enactment of this Act, the Secretary shall, to the extent feasible, include in the Registry such individual's name and the data and information, if any, described in subsection (b)(2) relating to the individual.

(d) **DEPARTMENT OF DEFENSE INFORMATION.**—The Secretary of Defense shall furnish to the Secretary of Veterans Affairs such information maintained by the Department of Defense as the Secretary of Veterans Affairs considers necessary to establish and maintain the Registry.

(e) **RELATION TO DEPARTMENT OF DEFENSE REGISTRY.**—The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall ensure that information is collected and maintained in the Registry in a manner that permits effective and efficient cross-reference between the Registry and the registry established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1411; 10 U.S.C. 1074 note), as amended by section 704.

(f) **ONGOING OUTREACH TO INDIVIDUALS LISTED IN REGISTRY.**—The Secretary of Veterans Affairs shall, from time to time, notify individuals listed in the Registry of significant developments in research on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

**SEC. 703. HEALTH EXAMINATIONS AND COUNSELING FOR VETERANS ELIGIBLE FOR INCLUSION IN CERTAIN HEALTH-RELATED REGISTRIES.**

(a) **IN GENERAL.**—(1) The Secretary of Veterans Affairs—

(A) shall, upon the request of a veteran described in subsection (b)(1), provide the veteran with a health examination and consultation and counseling with respect to the results of the examination; and

(B) may, upon the request of a veteran described in subsection (b)(2), provide the veteran with such an examination and such consultation and counseling.

(2) The Secretary shall carry out appropriate outreach activities with respect to the provision of any health examinations and consultation and counseling services under paragraph (1).

(b) **COVERED VETERANS.**—(1) In accordance with subsection (a)(1)(A), the Secretary shall provide an examination, consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in the Persian Gulf War Veterans Health Registry established by section 702.

(2) In accordance with subsection (a)(1)(B), the Secretary may provide an examination, consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in any other similar health-related registry administered by the Secretary.

**SEC. 704. EXPANSION OF COVERAGE OF PERSIAN GULF REGISTRY.**

(a) **IN GENERAL.**—Subsections (a) and (b) of section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1411; 10 U.S.C. 1074 note) are amended to read as follows:

“(a) **ESTABLISHMENT OF REGISTRY.**—The Secretary of Defense shall establish and maintain a special record (in this section referred to as the ‘Registry’) relating to the following members of the Armed Forces:

“(1) Members who, as determined by the Secretary, were exposed to the fumes of burning oil in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

“(2) Any other members who served in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

“(b) **CONTENTS OF REGISTRY.**—(1) The Registry shall include—

“(A) with respect to each class of members referred to in each of paragraphs (1) and (2) of subsection (a)—

“(i) a list containing each such member’s name and other relevant identifying information with respect to the member; and

“(ii) to the extent that data are available and inclusion of the data is feasible, a description of the circumstances of the member’s service during the Persian Gulf conflict, including the locations in the Operation Desert Storm theater of operations in which such service occurred and the atmospheric and other environmental circumstances in such locations at the time of such service; and

“(B) with respect to the members referred to in subsection (a)(1), a description of the circumstances of each exposure of each such member to the fumes of burning oil as described in such subsection (a)(1), including the length of time of the exposure.

“(2) The Secretary shall establish the Registry with the advice of an independent scientific organization.”

(b) **CONFORMING AMENDMENTS.**—(1) Subsection (c)(1) of such section is amended by striking out “subsection (a)” and inserting in lieu thereof “subsection (a)(1)”.

(2) Subsection (d) of such section is amended by inserting “pursuant to subsection (a)(1)” after “Registry”.

**SEC. 705. STUDY BY OFFICE OF TECHNOLOGY ASSESSMENT OF PERSIAN GULF REGISTRY AND PERSIAN GULF WAR VETERANS HEALTH REGISTRY.**

(a) **STUDY.**—The Director of the Office of Technology Assessment shall, in a manner consistent with the Technology Assessment Act of 1972 (2 U.S.C. 472(d)), assess—

(1) the potential utility of each of the Persian Gulf Registry and the Persian Gulf War Veterans Health Registry for scientific study and assessment of the intermediate and long-term health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War;

(2) the extent to which each registry meets the requirements of the provisions of law under which the registry is established;

(3) the extent to which data contained in each registry—

(A) are maintained in a manner that ensures permanent preservation and facilitates the effective, efficient

retrieval of information that is potentially relevant to the scientific study of the intermediate and long-term health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War; and

(B) would be useful for scientific study regarding such health consequences;

(4) the adequacy of any plans to update each of the registries;

(5) the extent to which the Department of Defense or the Department of Veterans Affairs, as the case may be, is assembling and maintaining information on the Persian Gulf theater of operations (including information on troop locations and atmospheric and weather conditions) in a manner that facilitates the usefulness of, maintenance of, and retrieval of information from, the applicable registry; and

(6) the adequacy and compatibility of protocols for the health examinations and counseling provided under section 703 and health examinations provided by the Department of Defense to members of the Armed Forces for the purpose of assessing the health status of members of the Armed Forces who served in the Persian Gulf theater of operations during the Persian Gulf War.

(b) **ACCESS TO INFORMATION.**—The Secretary of Veterans Affairs and the Secretary of Defense shall provide the Director with access to such records and information under the jurisdiction of each such secretary as the Director determines necessary to permit the Director to carry out the study required under this section.

(c) **REPORTS.**—The Director shall—

(1) not later than 270 days after the date of the enactment of this Act, submit to Congress a report on the results of the assessment carried out under this section of the Persian Gulf Registry and health-examination protocols; and

(2) not later than 15 months after such date, submit to Congress a report on the results of the assessment carried out under this section of the Persian Gulf War Veterans Health Registry.

(d) **DEFINITIONS.**—For the purposes of this section:

(1) The term “Persian Gulf Registry” means the registry established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1411; 10 U.S.C. 1074 note), as amended by section 704.

(2) The term “Persian Gulf War Veterans Health Registry” means the Persian Gulf War Veterans Health Registry established under section 702.

**SEC. 706. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES FOR REVIEW OF HEALTH CONSEQUENCES OF SERVICE DURING THE PERSIAN GULF WAR.**

(a) **AGREEMENT.**—(1) The Secretary of Veterans Affairs and Secretary of Defense jointly shall seek to enter into an agreement with the National Academy of Sciences for the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the Academy to review existing scientific, medical, and other information on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

(2) The agreement shall require MFUA to provide members of veterans organizations and members of the scientific community (including the Director of the Office of Technology Assessment) with the opportunity to comment on the method or methods MFUA proposes to use in conducting the review.

(3) The agreement shall permit MFUA, in conducting the review, to examine and evaluate medical records of individuals who are included in the registries referred to in section 705(d) for purposes that MFUA considers appropriate, including the purpose of identifying illnesses of those individuals.

(4) The Secretary of Veterans Affairs and the Secretary of Defense shall seek to enter into the agreement under this section not later than 180 days after the date of the enactment of this Act.

(b) REPORT.—(1) The agreement under this section shall require the National Academy of Sciences to submit to the committees and secretaries referred to in paragraph (2) a report on the results of the review carried out under the agreement. Such report shall contain the following:

(A) An assessment of the effectiveness of actions taken by the Secretary of Veterans Affairs and the Secretary of Defense to collect and maintain information that is potentially useful for assessing the health consequences of the military service referred to in subsection (a).

(B) Recommendations on means of improving the collection and maintenance of such information.

(C) Recommendations on whether there is sound scientific basis for an epidemiological study or studies on the health consequences of such service, and if the recommendation is that there is sound scientific basis for such a study or studies, the nature of the study or studies.

(2) The committees and secretaries referred to in paragraph (1) are the following:

(A) The Committees on Veterans' Affairs of the Senate and House of Representatives.

(B) The Committees on Armed Services of the Senate and House of Representatives.

(C) The Secretary of Veterans Affairs.

(D) The Secretary of Defense.

(c) FUNDING.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall make available up to a total of \$500,000 in fiscal year 1993, from funds available to the Department of Veterans Affairs and the Department of Defense in that fiscal year, to carry out the review. Any amounts provided by the two departments shall be provided in equal amounts.

(2) If the Secretary of Veterans Affairs and the Secretary of Defense enter into an agreement under subsection (a) with the National Academy of Sciences—

(A) the Secretary of Veterans Affairs shall make available \$250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Veterans Affairs in each such fiscal year, to the National Academy of Sciences for the general purposes of conducting epidemiological research with respect to military and veterans populations; and

(B) the Secretary of Defense shall make available \$250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Defense in each such fiscal year,

to the National Academy of Sciences for the purposes of carrying out the research referred to in subparagraph (A).

**SEC. 707. COORDINATION OF GOVERNMENT ACTIVITIES ON HEALTH-RELATED RESEARCH ON THE PERSIAN GULF WAR.**

(a) **DESIGNATION OF COORDINATING ORGANIZATION.**—The President shall designate, and may redesignate from time to time, the head of an appropriate department or agency of the Federal Government to coordinate all research activities undertaken or funded by the Executive Branch of the Federal Government on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

(b) **REPORT.**—Not later than March 1 of each year, the head of the department or agency designated under subsection (a) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and results of all such research activities undertaken or by the Executive Branch of the Federal Government during the previous year.

**SEC. 708. DEFINITION.**

For the purposes of this title, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

## **TITLE VIII—COURT OF VETERANS APPEALS**

**SEC. 801. DISCIPLINARY PROCEDURES FOR JUDGES OF COURT OF VETERANS APPEALS.**

Section 7253(g) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The provisions of paragraphs (7) through (15) of section 372(c) of title 28, regarding referral or certification to, and petition for review in, the Judicial Conference of the United States and action thereon, shall apply to the exercise by the Court of the powers of a judicial council under paragraph (1) of this subsection. The grounds for removal from office specified in subsection (f)(1) shall provide a basis for a determination pursuant to paragraph (7) or (8) of section 372(c) of title 28, and certification and transmittal by the Conference shall be made to the President for consideration under subsection (f).

"(3)(A) In conducting hearings pursuant to paragraph (1), the Court may exercise the authority provided under section 1821 of title 28 to pay the fees and allowances described in that section.



“(B) The Court shall have the power provided under section 372(c)(16) of title 28 to award reimbursement for the reasonable expenses described in that section. Reimbursements under this subparagraph shall be made from funds appropriated to the Court.”.

Approved November 4, 1992.

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**LEGISLATIVE HISTORY—H.R. 5193 (S. 2575):**

HOUSE REPORTS: No. 102-714, Pt. 1 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 102-401 accompanying S. 2575 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Aug. 4, considered and passed House.

Oct. 1, H.R. 5193 considered and passed Senate, amended, in lieu of S. 2575.

Oct. 5, House concurred in Senate amendments with amendments.

Oct. 8, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Nov. 4, Presidential statement.