

Public Law 97-174
97th Congress

An Act

May 4, 1982
[S. 266]

To amend title 38, United States Code, to promote greater sharing of health-care resources between the Veterans' Administration and the Department of Defense and to direct the Secretary of Defense and the Administrator of Veterans' Affairs to plan for the provision of health care by the Veterans' Administration during periods of war or national emergency to members of the Armed Forces on active duty; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act".

SEC. 2. (a) The Congress makes the following findings:

(1) There are opportunities for greater sharing of the health-care resources of the Veterans' Administration and the Department of Defense which would, if achieved, be beneficial to both veterans and members of the Armed Forces and could result in reduced costs to the Government by minimizing duplication and underuse of health-care resources.

(2) Present incentives to encourage such sharing of health-care resources are inadequate.

(3) Such sharing of health-care resources can be achieved without a detrimental effect on the primary health-care beneficiaries of the Veterans' Administration and the Department of Defense.

(b) The Congress makes the following further findings:

(1) During and immediately after a period of war or national emergency involving the use of the Armed Forces of the United States in armed conflict, the Department of Defense might not have adequate health-care resources to care for military personnel wounded in combat and other active-duty military personnel.

(2) The Veterans' Administration has an extensive, comprehensive health-care system that could be used to assist the Department of Defense in caring for such personnel in such a situation.

SEC. 3. (a) Section 5011 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "The Administrator" the first place it appears;

(2) by striking out "and material" and all that follows through "this title," and inserting in lieu thereof "material, and other resources as may be needed to operate such facilities properly, except that the Administrator may not enter into an agreement that would result (1) in a permanent reduction in the total number of authorized Veterans' Administration hospital beds and nursing home beds to a level below the minimum number of such beds required by section 5010(a)(1) of this title to be authorized, or (2) in a permanent reduction in the total number of such beds operated and maintained to a level

Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act.
38 USC 101 note.
38 USC 5011 note.

38 USC 5011A note.

38 USC 5010.

below the minimum number of such beds required by such section to be operated and maintained"; and

(3) by adding at the end the following new subsections:

"(b)(1) In order to promote the sharing of health-care resources between the Veterans' Administration and the Department of Defense (hereinafter in this section referred to as the 'agencies'), there is established an interagency committee to be known as the Veterans' Administration/Department of Defense Health-Care Resources Sharing Committee (hereinafter in this subsection referred to as the 'Committee').

Veterans'
Administration/
Department of
Defense Health-
Care Resources
Sharing Com-
mittee.
Establishment.

"(2) The Committee shall be composed of—

"(A) the Chief Medical Director and such other officers and employees of the Veterans' Administration as the Chief Medical Director may designate; and

"(B) the Assistant Secretary of Defense for Health Affairs (hereinafter in this section referred to as the 'Assistant Secretary') and such other officers and employees of the Department of Defense as the Assistant Secretary may designate,

except that the size of the Committee shall be mutually determined by the Chief Medical Director and the Assistant Secretary. During fiscal years 1982 and 1983, the Chief Medical Director shall be the chairman of the Committee. During fiscal year 1984, the Assistant Secretary shall be the chairman of the Committee. Thereafter, the chairmanship of the Committee shall alternate each fiscal year between the Chief Medical Director and the Assistant Secretary. The agencies shall provide administrative support services for the Committee at a level sufficient for the efficient operation of the Committee and shall share the responsibility for the provision of such services on an equitable basis.

"(3) In order to enable the Committee to make recommendations under paragraph (4) of this subsection, the Committee shall on a continuing basis—

Duties.

"(A) review existing policies, procedures, and practices relating to the sharing of health-care resources between the agencies;

"(B) identify and assess further opportunities for the sharing of health-care resources between the agencies that would not, in the judgment of the Committee, adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency;

"(C) identify changes in policies, procedures, and practices that would, in the judgment of the Committee, promote such sharing of health-care resources between the agencies;

"(D) monitor plans of the agencies for the acquisition of additional health-care resources, including the location of new facilities and the acquisition of major equipment, in order to assess the potential impact of such plans on further opportunities for such sharing of health-care resources; and

"(E) monitor the implementation of activities designed to promote the sharing of health-care resources between the agencies.

"(4) Within nine months of the date of the enactment of this subsection and at such times thereafter as the Committee considers appropriate, the Committee shall make recommendations to the Administrator or the Secretary of Defense, or both, with respect to (A) changes in policies, procedures, and practices that the Committee has identified under paragraph (3)(C) of this subsection pertain-

Recommendations to VA Administrator or DOD Secretary.

ing to the sharing of health-care resources described in such paragraph, and (B) such other matters as the Committee considers appropriate in order to promote such sharing of health-care resources.

Health-care
resources
sharing
guidelines.

“(c)(1) After considering the recommendations made under subsection (b)(4) of this section, the Administrator and the Secretary of Defense shall jointly establish guidelines to promote the sharing of health-care resources between the agencies. Guidelines established under this subsection shall provide for such sharing consistent with the health-care responsibilities of the Veterans’ Administration under this title and with the health-care responsibilities of the Department of Defense under chapter 55 of title 10 and so as not to adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency.

10 USC 1071 *et*
seq.

“(2) Guidelines established under paragraph (1) of this subsection shall authorize the heads of individual medical facilities of the agencies to enter into health-care resources sharing agreements in accordance with subsection (d) of this section and shall include guidelines for such agreements.

Sharing
agreements.

“(d)(1) The head of each medical facility of either agency is authorized to enter into sharing agreements with the heads of medical facilities of the other agency in accordance with guidelines established under subsection (c) of this section. Under any such agreement, an individual who is a primary beneficiary of one agency may be provided health care at a facility of the other agency that is a party to the sharing agreement.

“(2) Each such agreement shall identify the health-care resources to be shared.

“(3) Each such agreement shall provide, and shall specify procedures designed to ensure, that the availability of direct health care to individuals who are not primary beneficiaries of the providing agency (A) is on a referral basis from the facility of the other agency, and (B) does not (as determined by the head of the facility of the providing agency) adversely affect the range of services, the quality of care, or the established priorities for care provided to the primary beneficiaries of the providing agency.

Reimbursement.

“(4) Each such agreement shall provide that a providing agency shall be reimbursed for the cost of the health-care resources provided under the agreement and that the rate for such reimbursement shall be determined in accordance with the methodology agreed to pursuant to subsection (e) of this section.

Agreement
proposals,
submittal.

“(5) Each proposal for an agreement under paragraph (1) of this subsection shall be submitted to the Chief Medical Director and the Assistant Secretary and shall be effective as an agreement in accordance with its terms (A) on the forty-sixth day after the receipt of such proposal by both such officials, unless earlier disapproved by either such official, or (B) if earlier approved by both such officials, on the date of such approval.

Reimbursement
methodology
provisions.

“(e) Reimbursement under any sharing agreement entered into under subsection (d) of this section shall be based upon a methodology that is agreed upon by the Chief Medical Director and the Assistant Secretary and that provides appropriate flexibility to the heads of the facilities concerned to take into account local conditions and needs and the actual costs to the providing agency’s facility of the health-care resources provided. Any funds received through such a reimbursement shall be credited to funds that have been allotted to the facility that provided the care or services.

“(f) At the time the President’s Budget is transmitted to Congress in any year pursuant to section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a)), the Administrator and the Secretary of Defense shall submit a joint report to Congress on the implementation of this section during the fiscal year that ended during the previous calendar year. Each such report shall include—

Report to
Congress.

“(1) the guidelines prescribed under subsection (c) of this section (and any revision of such guidelines);

“(2) the assessment of further opportunities identified under clause (B) of subsection (b)(3) of this section for sharing of health-care resources between the agencies;

“(3) any recommendation made under subsection (b)(4) of this section during such fiscal year;

“(4) a review of the sharing agreements entered into under subsection (d) of this section and a summary of activities under such agreements during such fiscal year;

“(5) a summary of other planning and activities involving either agency in connection with promoting the coordination and sharing of Federal health-care resources during the preceding fiscal year; and

“(6) such recommendations for legislation as the Administrator and the Secretary consider appropriate to facilitate the sharing of health-care resources between the agencies.

“(g) For the purposes of this section:

Definitions.

“(1) The term ‘beneficiary’ means a person who is a primary beneficiary of the Veterans’ Administration or of the Department of Defense.

“(2) The term ‘direct health care’ means health care provided to a beneficiary in a medical facility operated by the Veterans’ Administration or the Department of Defense.

“(3) The term ‘head of a medical facility’ (A) with respect to a medical facility of the Veterans’ Administration, means the director of the facility, and (B) with respect to a medical facility of the Department of Defense, means the medical or dental officer in charge or the contract surgeon in charge.

“(4) The term ‘health-care resource’ includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 601 of this title, any other health-care service, and any health-care support or administrative resource.

“(5) The term ‘primary beneficiary’ (A) with respect to the Veterans’ Administration means a person who is eligible under this title (other than under section 611(b) or 613 or subsection (d) of this section) or any other provision of law for care or services in Veterans’ Administration medical facilities, and (B) with respect to the Department of Defense, means a member or former member of the Armed Forces who is eligible for care under section 1074 of title 10.

38 USC 611, 613.

“(6) The term ‘providing agency’ means the Veterans’ Administration, in the case of care or services furnished by a facility of the Veterans’ Administration, and the Department of Defense, in the case of care or services furnished by a facility of the Department of Defense.”.

(b)(1) The heading of such section is amended to read as follows:

38 USC 5011.

"§ 5011. Sharing of Veterans' Administration and Department of Defense health-care resources".

(2) The item relating to such section in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

"5011. Sharing of Veterans' Administration and Department of Defense health-care resources."

38 USC 5011
note.

(c) The Assistant Secretary of Defense for Health Affairs shall consult regularly with the Surgeons General of the Army, Navy, and Air Force in carrying out the duties and functions assigned to the Assistant Secretary in section 5011 of title 38, United States Code, as amended by subsection (a) of this section.

38 USC 5011
note.

(d) The guidelines required to be established under subsection (c) of section 5011 of title 38, United States Code, as added by subsection (a) of this section, shall initially be established not later than twelve months after the date of the enactment of this Act.

SEC. 4. (a) Chapter 81 of title 38, United States Code, is amended by inserting after section 5011 the following new section:

38 USC 5011A.

"§ 5011A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency

"(a)(1) During and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Administrator may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty. The Administrator may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Veterans' Administration with the exception of veterans with service-connected disabilities.

Definitions.

38 USC 601, 101.

"(2) For the purposes of this section, the terms 'hospital care', 'nursing home care', and 'medical services' have the meanings given such terms by sections 601(5), 101(28), and 601(6) of this title, respectively.

Contracts with
private facilities.

"(b)(1) During a period in which the Administrator is authorized to furnish care and services to members of the Armed Forces under subsection (a) of this section, the Administrator, to the extent authorized by the President and subject to the availability of appropriations or reimbursements under subsection (c) of this section, may enter into contracts with private facilities for the provision during such period by such facilities of hospital care and medical services described in paragraph (2) of this subsection.

"(2) Hospital care and medical services referred to in paragraph (1) of this subsection are—

38 USC 612.

"(A) hospital care and medical services authorized under this title for a veteran and necessary for the care or treatment of a condition for which the veteran is receiving medical services at a Veterans' Administration facility under subsection (f) or (g) of section 612 of this title, in a case in which the delay involved in furnishing such care or services at such Veterans' Administration facility or at any other Veterans' Administration facility reasonably accessible to the veteran would, in the judgment of the Chief Medical Director, be likely to result in a deterioration of such condition; and

"(B) hospital care for a veteran who—

“(i) is receiving hospital care under section 610 of this title; or

38 USC 610.

“(ii) is eligible for hospital care under such section and requires such care in a medical emergency that poses a serious threat to the life or health of the veteran;

if Veterans' Administration facilities are not capable of furnishing or continuing to furnish the care required because of the furnishing of care and services to members of the Armed Forces under subsection (a) of this section.

“(c)(1) The cost of any care or services provided by the Veterans' Administration under subsection (a) of this section shall be reimbursed to the Veterans' Administration by the Department of Defense at such rates as may be agreed upon by the Administrator and the Secretary of Defense based on the cost of the care or services provided.

Care or service costs, reimbursement.

“(2) Amounts received under this subsection shall be credited to funds allotted to the Veterans' Administration facility that provided the care or services.

“(d)(1) Not later than six months after the date of the enactment of this section, the Administrator and the Secretary of Defense shall enter into an agreement to plan and establish procedures and guidelines for the implementation of this section. Not later than one year after the date of the enactment of this section, the Administrator and the Secretary shall complete plans for such implementation and shall submit such plans to the Committees on Veterans' Affairs and on Armed Services of the Senate and House of Representatives.

Plans implementation.

Submission to congressional committees.

“(2) The Administrator and the Secretary of Defense shall jointly review such plans not less often than annually thereafter and shall report to such committees any modification in such plans within thirty days after the modification is agreed to.

Review and report.

“(e) The Administrator shall prescribe regulations to govern any exercise of the authority of the Administrator under subsections (a) and (b) of this section and of the Chief Medical Director under subsection (b)(2)(A) of this section.

Regulations.

“(f) Within thirty days after a declaration of a period of war or national emergency described in subsection (a) of this section (or as soon after the end of such thirty-day period as is reasonably practicable), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Administrator's allocation of facilities and personnel in order to provide priority hospital care, nursing home care, and medical services under this section to members of the Armed Forces. Thereafter, with respect to any fiscal year in which the authority in subsection (b) of this section to enter into contracts with private facilities has been used, the Administrator shall report within ninety days after the end of such fiscal year to those committees regarding the extent of, and the circumstances under which, such authority was used.”

Reports to congressional committees.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5011 the following new item:

“5011A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency.”

SEC. 5. (a) Section 1786(a) of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, funds in the Veterans' Administration readjustment benefits account shall be available for payments under paragraph (1) of this subsection for pursuit of a program of education exclusively by correspondence in which the veteran or spouse or surviving spouse enrolls after September 30, 1981."

(b) The amendment made by subsection (a) of this section shall take effect as of October 1, 1981.

SEC. 6. The Veterans' Administration medical center located at 1481 West 10th Street, Indianapolis, Indiana, shall after the date of the enactment of this Act be known and designated as the "Richard L. Roudebush Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, document, map, record, or other paper of the United States shall after such date be deemed to be a reference to the Richard L. Roudebush Veterans' Administration Medical Center.

Approved May 4, 1982.

Effective date.
38 USC 1786
note.
Richard L.
Roudebush
Veterans'
Administration
Medical Center,
designation

LEGISLATIVE HISTORY—S. 266 (H.R. 3502):

HOUSE REPORTS: No. 97-72, Pt. I (Comm. on Veterans' Affairs) and Pt. II (Comm. on Armed Services) both accompanying H.R. 3502.

SENATE REPORTS: No. 97-137 (Comm. on Governmental Affairs) and No. 97-196 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Oct. 27, considered and passed Senate.

Nov. 4, considered and passed House, amended, in lieu of H.R. 3502.

Vol. 128 (1982): Apr. 1, Senate agreed to House amendments with amendments.

Apr. 20, House concurred in Senate amendments.