

110TH CONGRESS
2D SESSION

H. R. 5448

To amend title 38, United States Code, to improve the disability compensation evaluation procedure of the Secretary of Veterans Affairs for veterans with post-traumatic stress disorder, to improve the diagnosis and treatment of post-traumatic stress disorder by the Secretary of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2008

Mr. ALLEN (for himself and Mr. MICHAUD) introduced the following bill;
which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the disability compensation evaluation procedure of the Secretary of Veterans Affairs for veterans with post-traumatic stress disorder, to improve the diagnosis and treatment of post-traumatic stress disorder by the Secretary of Veterans Affairs, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Full Faith in Veterans
5 Act of 2008”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Men and women who serve in the Armed
4 Forces make great sacrifices for the Nation and for
5 freedom.

6 (2) The Nation takes great pride in the integ-
7 rity of members of the Armed Forces and places full
8 faith and confidence in these men and women serv-
9 ing in the Armed Forces.

10 (3) The Nation should extend such full faith to
11 the integrity of those men and women when they
12 make claims for disability compensation related to
13 their service.

14 (4) In the spirit of the Armed Forces' pledge
15 never to leave a man behind, the Nation should
16 never leave a veteran behind.

17 (5) Military service is inherently dangerous and
18 stressful whether during peacetime or during war.

19 (6) Post-traumatic stress disorder (referred to
20 in this section as "PTSD") is a debilitating mental
21 health condition linked to military service that the
22 Secretary of Veterans Affairs should make every ef-
23 fort to diagnose and effectively treat.

24 (7) It is recognized in the medical community
25 that PTSD can onset at anytime after a traumatic

1 event, and the course of the disorder can contain pe-
2 riods of both relapse and remission.

3 (8) Denial by the Secretary of Veterans Affairs
4 of claims for disability compensation for PTSD due
5 to incomplete military records does a disservice to
6 those who have honorably served the country.

7 (9) Military records that would validate such
8 claims may have been lost due to no fault of the vet-
9 eran.

10 (10) Due to the dangerous and fast-paced envi-
11 ronment in which the members of the Armed Forces
12 operate, not every significant and possibly traumatic
13 incident in the life and service of each member is
14 chronicled accurately or completely.

15 (11) Evaluations for disability compensation for
16 PTSD often place veterans under the additional
17 hardship of reliving traumatic events by describing
18 them to unfamiliar medical professionals.

19 (12) According to the Institute of Medicine and
20 representatives of certain veterans' service organiza-
21 tions, evaluations for pension and disability com-
22 pensation for PTSD are sometimes completed in as
23 little as 20 minutes, despite recommendations of the
24 mental health community that evaluations should
25 take place over a period of one hour or more.

1 (13) The Veterans' Disability Benefits Commis-
2 sion, established pursuant to title XV of the Na-
3 tional Defense Authorization Act for Fiscal Year
4 2004, issued recommendations to improve the care,
5 compensation, and treatment of veterans diagnosed
6 with PTSD, including updating the schedule for rat-
7 ing disabilities under section 1155 of title 38,
8 United States Code, establishing new criteria for the
9 diagnosis and treatment of PTSD, and using a ho-
10 listic approach to treat veterans with PTSD that in-
11 corporates treatment, compensation, and vocational
12 assessment.

13 **SEC. 3. STANDARD OF PROOF FOR SERVICE-CONNECTION**
14 **OF POST-TRAUMATIC STRESS DISORDER.**

15 (a) STANDARD OF PROOF.—Section 1154 of title 38,
16 United States Code, is amended by adding at the end the
17 following new subsection:

18 “(c) The Secretary shall accept as sufficient proof of
19 service-connection of post-traumatic stress disorder al-
20 leged to have been incurred in or aggravated by service
21 in the active military, naval, or air service a diagnosis of
22 post-traumatic stress disorder by a mental health profes-
23 sional together with a written determination by the profes-
24 sional that such disorder is related to the veteran's service,
25 if consistent with the circumstances, conditions, or hard-

1 ships of such service, notwithstanding the fact that there
2 is no official record of such incurrence or aggravation in
3 such service, and, to that end, shall resolve every reason-
4 able doubt in favor of the veteran. Service-connection of
5 post-traumatic stress disorder may be rebutted by clear
6 and convincing evidence to the contrary. In the case of
7 such a rebuttal, the Secretary shall make all documents
8 related to the service-connection of the veteran's disability
9 available to the veteran.''.
10

11 (b) APPLICABILITY.—Subsection (c) of section 1154
12 of title 38, United States Code, shall apply with respect
13 to any claim for disability compensation under laws ad-
14 ministered by the Secretary of Veterans Affairs for which
15 no final decision has been made before the date of the
16 enactment of this Act.

17 **SEC. 4. IMPROVEMENT OF DEPARTMENT OF VETERANS AF-**
18 **FAIRS EVALUATIONS OF CLAIMS RELATING**
19 **TO POST-TRAUMATIC STRESS DISORDER.**

20 (a) CERTIFICATION AND TRAINING FOR CERTAIN
21 EMPLOYEES.—

22 (1) CERTIFICATION PROGRAM.—

23 (A) CERTIFICATION REQUIRED.—The Sec-
24 retary of Veterans Affairs shall require covered
25 employees to successfully complete a certifi-
cation program established by the Secretary.

1 Such program shall include a periodic recertifi-
2 cation requirement.

3 (B) COVERED EMPLOYEES.—For the pur-
4 poses of this paragraph, a “covered employee”
5 is an employee of the Department of Veterans
6 Affairs who is responsible for rating disabilities,
7 evaluating claims for disability compensation
8 for post-traumatic stress disorder, or adjudi-
9 cating disability compensation ratings.

10 (C) PROGRAM REQUIREMENTS.—The cer-
11 tification program under subparagraph (A)
12 shall—

13 (i) provide specialized training on the
14 psychological and medical issues (including
15 comorbidities) that characterize individuals
16 with post-traumatic stress disorder and
17 give guidance on how to appropriately
18 manage commonly encountered problems in
19 evaluating and rating such disorder; and

20 (ii) incorporate the recommendations
21 contained in the Best Practice Manual for
22 Post-Traumatic Stress Disorder (PTSD)
23 Compensation and Pension Examinations
24 issued by the National Center for Post-

1 Traumatic Stress Disorder of the Depart-
2 ment of Veterans Affairs.

3 (D) REVIEW OF REQUIREMENTS.—The
4 Secretary shall regularly review and update the
5 requirements for successfully completing the
6 certification program under subparagraph (A)
7 to take into consideration medical advances and
8 to reflect lessons learned.

9 (2) TRAINING PROGRAM.—The Secretary of
10 Veterans Affairs shall provide training to support
11 the certification program required under paragraph
12 (1).

13 (b) AUDITS OF EXAMINATIONS.—The Secretary of
14 Veterans Affairs shall conduct audits of the examinations
15 conducted by employees of the Department of Veterans
16 Affairs of veterans who submit claims for disability com-
17 pensation for post-traumatic stress disorder to ensure that
18 such employees are taking sufficient time necessary to di-
19 agnose and accurately rate the disorder.

20 (c) UPDATE OF SCHEDULE FOR RATING DISABIL-
21 ITIES.—Not later than 90 days after the date of the enact-
22 ment of this Act, the Secretary of Veterans Affairs shall
23 begin updating the schedule for rating disabilities under
24 section 1155 of title 38, United States Code. The Sec-
25 retary shall begin by updating the schedule with respect

1 to post-traumatic stress disorder, traumatic brain injury,
2 and other mental disorders. The Secretary shall complete
3 such update not later than five years after the date of
4 the enactment of this Act.

5 (d) NEW CRITERIA FOR POST-TRAUMATIC STRESS
6 DISORDER.—The Secretary of Veterans Affairs shall im-
7 plement the criteria of the Diagnostic and Statistical Man-
8 ual of Mental Disorders, 4th Edition, specific to post-trau-
9 matic stress disorder and use such criteria for the purpose
10 of rating post-traumatic stress disorder pursuant to the
11 schedule for rating disabilities under section 1155 of title
12 38, United States Code.

13 (e) HOLISTIC APPROACH REQUIRED.—The Secretary
14 of Veterans Affairs shall implement a holistic approach for
15 providing treatment for veterans with post-traumatic
16 stress disorder. Such approach shall combine treatment
17 for post-traumatic stress disorder, compensation, and vo-
18 cational assessment.

19 (f) TREATMENT OF MENTAL HEALTH RECORDS.—
20 The Secretary of Veterans Affairs shall require an em-
21 ployee of the Department of Veterans Affairs who is re-
22 sponsible for adjudicating disability compensation ratings,
23 in developing evidence for a claim for disability compensa-
24 tion to take into consideration the following:

1 (1) In the case of a veteran who has visited a
2 center for the provision of readjustment counseling
3 and related mental health services under section
4 1712A of title 38, United States Code, any treat-
5 ment records of the veteran from that center.

6 (2) In the case of a veteran who has received
7 mental health services from a mental health profes-
8 sional, any written opinion of that mental health
9 professional submitted to the Department by the
10 veteran.

11 (g) CONSIDERATION OF CERTAIN MATERIALS.—In
12 carrying out subsections (c), (d), and (e), the Secretary
13 of Veterans Affairs shall consider materials on post-trau-
14 matic stress disorder and mental health provided by the
15 National Center on Post-Traumatic Stress Disorder of the
16 Department of Veterans Affairs and the Institute of Medi-
17 cine.

18 (h) EMPLOYEE.—For purposes of this section, the
19 term “employee of the Department of Veterans Affairs”
20 includes an employee of any entity with which the Sec-
21 retary of Veterans Affairs has entered into a contract for
22 the provision of conducting examinations or rating disabili-
23 ties for purposes of determining the amount of disability
24 compensation to be provided to a veteran under laws ad-
25 ministered by the Secretary.

1 **SEC. 5. REPORT TO CONGRESS.**

2 Not later than two years after the date of the enact-
3 ment of this Act, the Secretary of Veterans Affairs shall
4 submit to Congress a report on the implementation of this
5 Act and the amendments made by this Act. Such report
6 shall include any evidence of fraud or abuse relating to
7 any provision of this Act or amendment made by this Act.

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