

110TH CONGRESS
1ST SESSION

S. 2377

To amend title 38, United States Code, to improve the quality of care provided to veterans in Department of Veterans Affairs medical facilities, to encourage highly qualified doctors to serve in hard-to-fill positions in such medical facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2007

Mr. DURBIN (for himself and Mr. OBAMA) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the quality of care provided to veterans in Department of Veterans Affairs medical facilities, to encourage highly qualified doctors to serve in hard-to-fill positions in such medical facilities, 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 “Veterans Health Care
5 Quality Improvement Act”.

1 **SEC. 2. STANDARDS FOR APPOINTMENT AND PRACTICE OF**
 2 **PHYSICIANS IN DEPARTMENT OF VETERANS**
 3 **AFFAIRS MEDICAL FACILITIES.**

4 (a) STANDARDS.—

5 (1) IN GENERAL.—Subchapter I of chapter 74
 6 of title 38, United States Code, is amended by in-
 7 serting after section 7402 the following new section:

8 **“§ 7402A. Appointment and practice of physicians:**
 9 **standards**

10 “(a) IN GENERAL.—The Secretary shall, acting
 11 through the Under Secretary for Health, prescribe stand-
 12 ards to be met by individuals in order to qualify for ap-
 13 pointment in the Administration in the position of physi-
 14 cian and to practice as a physician in medical facilities
 15 of the Administration. The standards shall incorporate the
 16 requirements of this section.

17 “(b) DISCLOSURE OF CERTAIN INFORMATION BE-
 18 FORE APPOINTMENT.—Each individual seeking appoint-
 19 ment in the Administration in the position of physician
 20 shall do the following:

21 “(1) Provide the Secretary a full and complete
 22 explanation of the following:

23 “(A) Each lawsuit, civil action, or other
 24 claim (whether open or closed) brought against
 25 the individual for medical malpractice or neg-
 26 ligence (other than a lawsuit, action, or claim

1 closed without any judgment against or pay-
2 ment by or on behalf of the individual).

3 “(B) Each payment made by or on behalf
4 of the individual to settle any lawsuit, action, or
5 claim covered by subparagraph (A).

6 “(C) Each investigation or disciplinary ac-
7 tion taken against the individual relating to the
8 individual’s performance as a physician.

9 “(2) Submit a written request and authoriza-
10 tion to the State licensing board of each State in
11 which the individual holds or has held a license to
12 practice medicine to disclose to the Secretary any in-
13 formation in the records of such State on the fol-
14 lowing:

15 “(A) Each lawsuit, civil action, or other
16 claim brought against the individual for medical
17 malpractice or negligence covered by paragraph
18 (1)(A) that occurred in such State.

19 “(B) Each payment made by or on behalf
20 of the individual to settle any lawsuit, action, or
21 claim covered by subparagraph (A).

22 “(C) Each medical malpractice judgment
23 against the individual by the courts or adminis-
24 trative agencies or bodies of such State.

1 “(D) Each disciplinary action taken or
2 under consideration against the individual by
3 an administrative agency or body of such State.

4 “(E) Any change in the status of the li-
5 cense to practice medicine issued the individual
6 by such State, including any voluntary or non-
7 disciplinary surrendering of such license by the
8 individual.

9 “(F) Any open investigation of the indi-
10 vidual by an administrative agency or body of
11 such State, or any outstanding allegation
12 against the individual before such an adminis-
13 trative agency or body.

14 “(c) DISCLOSURE OF CERTAIN INFORMATION FOL-
15 LOWING APPOINTMENT.—(1) Each individual appointed
16 in the Administration in the position of physician after
17 the date of the enactment of the Veterans Health Care
18 Quality Improvement Act shall, as a condition of service
19 under the appointment, disclose to the Secretary, not later
20 than 30 days after the occurrence of such event, the fol-
21 lowing:

22 “(A) A judgment against the individual for
23 medical malpractice or negligence.

1 “(B) A payment made by or on behalf of the
2 individual to settle any lawsuit, action, or claim dis-
3 closed under paragraph (1) or (2) of subsection (b).

4 “(C) Any disposition of or material change in a
5 matter disclosed under paragraph (1) or (2) of sub-
6 section (b).

7 “(2) Each individual appointed in the Administration
8 in the position of physician as of the date of the enactment
9 of the Veterans Health Care Quality Improvement Act
10 shall do the following:

11 “(A) Not later than the end of the 60-day pe-
12 riod beginning on the date of the enactment of that
13 Act and as a condition of service under the appoint-
14 ment after the end of that period, submit the re-
15 quest and authorization described in subsection
16 (b)(2).

17 “(B) Agree, as a condition of service under the
18 appointment, to disclose to the Secretary, not later
19 than 30 days after the occurrence of such event, the
20 following:

21 “(i) A judgment against the individual for
22 medical malpractice or negligence.

23 “(ii) A payment made by or on behalf of
24 the individual to settle any lawsuit, action, or

1 claim disclosed pursuant to subparagraph (A)
2 or under this subparagraph.

3 “(iii) Any disposition of or material change
4 in a matter disclosed pursuant to subparagraph
5 (A) or under this subparagraph.

6 “(3) Each individual appointed in the Administration
7 in the position of physician shall, as part of the biennial
8 review of the performance of the physician under the ap-
9 pointment, submit the request and authorization described
10 in subsection (b)(2). The requirement of this paragraph
11 is in addition to the requirements of paragraph (1) or (2),
12 as applicable.

13 “(d) INVESTIGATION OF DISCLOSED MATTERS.—(1)
14 The Regional Director of the Veterans Integrated Services
15 Network (VISN) in which an individual is seeking appoint-
16 ment in the Administration in the position of physician
17 shall perform a comprehensive investigation (in such man-
18 ner as the standards required by this section shall specify)
19 of each matter disclosed under subsection (b) with respect
20 to the individual.

21 “(2) The Regional Director of the Veterans Inte-
22 grated Services Network in which an individual is ap-
23 pointed in the Administration in the position of physician
24 shall perform a comprehensive investigation (in a manner

1 so specified) of each matter disclosed under subsection (c)
2 with respect to the individual.

3 “(3) The results of each investigation performed
4 under this subsection shall be fully documented.

5 “(e) APPROVAL OF APPOINTMENTS BY REGIONAL
6 DIRECTORS OF VISNs.—(1) An individual may not be ap-
7 pointed in the Administration in the position of physician
8 without the approval of the Regional Director of the Vet-
9 erans Integrated Services Network in which the individual
10 will first serve under the appointment.

11 “(2) In approving the appointment under this sub-
12 section of an individual for whom any matters have been
13 disclosed under subsection (b), a Regional Director shall—

14 “(A) certify in writing the completion of the
15 performance of the investigation under subsection
16 (d)(1) of each such matter, including the results of
17 such investigation; and

18 “(B) provide a written justification why any
19 matters raised in the course of such investigation do
20 not disqualify the individual from appointment.

21 “(f) BOARD CERTIFICATION.—(1) Except as pro-
22 vided in paragraph (2), an individual may not be ap-
23 pointed in the Administration in the position of physician
24 unless the individual is board certified in the specialties

1 in which the individual will practice under the appoint-
2 ment.

3 “(2) A Regional Director may waive the limitation
4 in paragraph (1) with respect to any individual who has
5 completed a residency program within the two-year period
6 ending on the date of such waiver if the individual provides
7 satisfactory evidence (as determined in accordance with
8 the standards required by this section) of an intent to be-
9 come board certified. The period of any waiver under this
10 paragraph may not exceed one year.

11 “(g) STATE LICENSE REQUIRED FOR PRACTICE IN
12 IN-STATE VA MEDICAL FACILITIES.—Each physician
13 practicing at a medical facility of the Department in a
14 State, whether under an appointment in the Administra-
15 tion or through the extension of privileges of practice,
16 shall, as a condition of such practice, hold a license to
17 practice medicine in the State within one year of appoint-
18 ment.

19 “(h) ENROLLMENT OF PHYSICIANS WITH PRACTICE
20 PRIVILEGES IN PROACTIVE DISCLOSURE SERVICE.—Each
21 medical facility of the Department at which physicians are
22 extended the privileges of practice shall enroll each physi-
23 cian extended such privileges in the Proactive Disclosure
24 Service of the National Practitioners Data Base.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
 2 tions at the beginning of chapter 74 of such title is
 3 amended by inserting after the item relating to sec-
 4 tion 7402 the following new item:

“7402A. Appointment and practice of physicians: standards.”.

5 (b) EFFECTIVE DATE AND APPLICABILITY.—

6 (1) EFFECTIVE DATE.—Except as provided in
 7 paragraph (2), the amendments made by subsection
 8 (a) shall take effect on the date of the enactment of
 9 this Act.

10 (2) APPLICABILITY OF CERTAIN REQUIRE-
 11 MENTS TO PHYSICIANS PRACTICING ON EFFECTIVE
 12 DATE.—In the case of an individual appointed to the
 13 Veterans Health Administration in the position of
 14 physician as of the date of the enactment of this
 15 Act—

16 (A) the requirements of subsections (f) and
 17 (g) of section 7402A, United States Code, as
 18 added by subsection (a) of this section, shall
 19 take effect on the date that is one year after
 20 the date of the enactment of this Act; and

21 (B) the requirements of subsection (h) of
 22 such section 7402A, as so added, shall take ef-
 23 fect on the date that is 60 days after the date
 24 of the enactment of this Act.

1 **SEC. 3. ENHANCEMENT OF QUALITY ASSURANCE BY THE**
2 **VETERANS HEALTH ADMINISTRATION.**

3 (a) ENHANCEMENT OF QUALITY ASSURANCE
4 THROUGH QUALITY ASSURANCE OFFICERS.—

5 (1) IN GENERAL.—Subchapter II of chapter 73
6 of title 38, United States Code, is amended by in-
7 serting after section 7311 the following new section:

8 **“§ 7311A. Quality assurance officers**

9 “(a) NATIONAL QUALITY ASSURANCE OFFICER.—(1)
10 The Under Secretary of Health shall designate an official
11 of the Administration to act as the principal quality assur-
12 ance officer for the quality-assurance program required by
13 section 7311 of this title. The official so designated may
14 be known as the ‘National Quality Assurance Officer of
15 the Veterans Health Administration’ (in this section re-
16 ferred to as the ‘National Quality Assurance Officer’).

17 “(2) The National Quality Assurance Officer shall re-
18 port directly to the Under Secretary for Health in the dis-
19 charge of responsibilities and duties of the Officer under
20 this section.

21 “(3) The National Quality Assurance Officer shall be
22 the official within the Administration who is principally
23 responsible for the quality-assurance program referred to
24 in paragraph (1). In carrying out that responsibility, the
25 Officer shall be responsible for—

1 “(A) establishing and enforcing the require-
2 ments of that program; and

3 “(B) carrying out such other responsibilities
4 and duties relating to quality assurance in the Ad-
5 ministration as the Under Secretary for Health shall
6 specify.

7 “(4) The requirements under paragraph (3) shall in-
8 clude requirements regarding the following:

9 “(A) A confidential system for the submittal of
10 reports by Administration personnel regarding qual-
11 ity assurance at Administration facilities.

12 “(B) Mechanisms for the peer review of the ac-
13 tions of individuals appointed in the Administration
14 in the position of physician.

15 “(C) Mechanisms for the accountability of the
16 facility director and chief medical officer of each Ad-
17 ministration medical facility for the actions of physi-
18 cians in such facility.

19 “(b) QUALITY ASSURANCE OFFICERS FOR VISNs.—
20 (1) The Regional Director of each Veterans Integrated
21 Services Network (VISN) shall appoint an official of the
22 Network to act as the quality assurance officer of the Net-
23 work.

1 “(2) Each official appointed as a quality assurance
2 officer under this subsection shall be a board-certified phy-
3 sician.

4 “(3) The quality assurance officer for a Veterans In-
5 tegrated Services Network shall report to the Regional Di-
6 rector of the Veterans Integrated Services Network, and
7 to the National Quality Assurance Officer, regarding the
8 discharge of the responsibilities and duties of the officer
9 under this section.

10 “(4) The quality assurance officer for a Veterans In-
11 tegrated Services Network shall—

12 “(A) direct the quality assurance office in the
13 Network; and

14 “(B) coordinate, monitor, and oversee the qual-
15 ity assurance programs and activities of the Admin-
16 istration medical facilities in the Network in order to
17 ensure the thorough and uniform discharge of qual-
18 ity assurance requirements under such programs
19 and activities throughout such facilities.

20 “(c) QUALITY ASSURANCE OFFICERS FOR MEDICAL
21 FACILITIES.—(1) The director of each Administration
22 medical facility shall appoint a quality assurance officer
23 for that facility.

1 “(2) Each official appointed as a quality assurance
2 officer under this subsection shall be a board-certified phy-
3 sician.

4 “(3) The official appointed as a quality assurance of-
5 ficer for a facility under this subsection shall be a prac-
6 ticing physician at the facility. If the official appointed as
7 quality assurance officer for a facility has other clinical
8 or administrative duties, the director of the facility shall
9 ensure that those duties are sufficiently limited in scope
10 so as to ensure that those duties do not prevent the officer
11 from effectively discharging the responsibilities and duties
12 of quality assurance officer at the facility.

13 “(4) The quality assurance officer for a facility shall
14 report directly to the director of the facility, and to the
15 quality assurance officer of the Veterans Integrated Serv-
16 ices Network in which the facility is located, regarding the
17 discharge of the responsibilities and duties of the quality
18 assurance officer under this section.

19 “(5) The quality assurance officer for a facility shall
20 be responsible for designing, disseminating, and imple-
21 menting quality assurance programs and activities for the
22 facility that meet the requirements established by the Na-
23 tional Quality Assurance Officer under subsection (a).”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tions at the beginning of chapter 73 of such title is

1 amended by inserting after the item relating to sec-
 2 tion 7311 the following new item:

“7311A. Quality assurance officers.”.

3 (b) BOARD-CERTIFIED PHYSICIAN REQUIREMENT
 4 FOR INDIVIDUALS APPOINTED AS UNDER SECRETARY
 5 FOR HEALTH.—Section 305(a)(2) of title 38, United
 6 States Code, is amended by inserting “shall be a board-
 7 certified physician and” before “shall be”.

8 (c) REPORTS ON QUALITY CONCERNS UNDER QUAL-
 9 ITY-ASSURANCE PROGRAM.—Section 7311(b) of such title
 10 is amended by adding at the end the following new para-
 11 graph:

12 “(4) As part of the quality-assurance program, the
 13 Under Secretary for Health shall establish mechanisms
 14 through which employees of Administration facilities may
 15 submit reports, on a confidential basis, on matters relating
 16 to quality of care in Administration facilities to the quality
 17 assurance officers of such facilities under section
 18 7311A(c) of this title and to the quality assurance officers
 19 of the Veterans Integrated Services Networks (VISNs) in
 20 which such facilities are located under section 7311A(b)
 21 of this title. The mechanisms shall provide for the prompt
 22 and thorough review of any reports so submitted by the
 23 receiving officials.”.

24 (d) REVIEW OF CURRENT HEALTH CARE QUALITY
 25 SAFEGUARDS.—

1 (1) IN GENERAL.—The Secretary of Veterans
2 Affairs shall conduct a comprehensive review of all
3 current policies and protocols of the Department of
4 Veterans Affairs for maintaining health care quality
5 and patient safety at Department of Veterans Af-
6 fairs medical facilities. The review shall include a re-
7 view and assessment of the National Surgical Qual-
8 ity Improvement Program (NSQIP), including an
9 assessment of—

10 (A) the efficacy of the quality indicators
11 under the program;

12 (B) the efficacy of the data collection
13 methods under the program;

14 (C) the efficacy of the frequency with
15 which regular data analyses are performed
16 under the program; and

17 (D) the extent to which the resources allo-
18 cated to the program are adequate to fulfill the
19 stated function of the program.

20 (2) REPORT.—Not later than 60 days after the
21 date of the enactment of this Act, the Secretary
22 shall submit to Congress a report on the review con-
23 ducted under paragraph (1), including the findings
24 of the Secretary as a result of the review and such

1 recommendations as the Secretary considers appro-
 2 priate in light of the review.

3 **SEC. 4. INCENTIVES TO ENCOURAGE HIGH-QUALITY PHYSI-**
 4 **CIANS TO SERVE IN THE VETERANS HEALTH**
 5 **ADMINISTRATION.**

6 (a) INCENTIVES REQUIRED.—

7 (1) IN GENERAL.—Subchapter III of chapter
 8 74 of title 38, United States Code, is amended by
 9 inserting after section 7431 the following new sec-
 10 tion:

11 **“§ 7431A. Physicians: additional incentives for service**
 12 **in hard-to-fill positions**

13 “(a) LOAN REPAYMENT FOR PHYSICIANS WHO
 14 SERVE IN HARD-TO-FILL POSITIONS.—(1) In order to re-
 15 cruit and retain physicians in the Administration in hard-
 16 to-fill positions (as designated by the Secretary for pur-
 17 poses of this subsection), the Secretary shall repay, for
 18 each individual who agrees to serve as a physician for a
 19 period of not less than three years in an Administration
 20 facility in such a position, any loan of such individual as
 21 follows:

22 “(A) Any loan of the individual described in
 23 paragraphs (1) through (4) of section 16302(a) of
 24 title 10.

1 “(B) Any other loan of the individual des-
2 ignated by the Secretary for purposes of this sub-
3 section the proceeds of which were used by the indi-
4 vidual to finance education leading to the medical
5 degree of the individual.

6 “(2) Each individual seeking repayment of loans
7 under paragraph (1) shall enter into an agreement with
8 the Secretary regarding the repayment of loans. Under the
9 agreement, the individual shall agree—

10 “(A) to perform satisfactory service in a physi-
11 cian position specified in the agreement in an Ad-
12 ministration facility specified in the agreement for
13 such period of years as the agreement shall specify;
14 and

15 “(B) to possess and retain for the period of the
16 agreement such professional qualifications as are
17 necessary for the service specified under subpara-
18 graph (A).

19 “(3) Repayment of loans under this subsection shall
20 be made on the basis of complete years of service under
21 the agreement under this subsection. The amount to be
22 repayed under an agreement under this subsection for a
23 complete year of service specified in the agreement shall
24 be such amount, not to exceed \$30,000, for each complete
25 year of service as the agreement shall specify.

1 “(b) TUITION REIMBURSEMENT FOR PHYSICIAN
 2 STUDENTS WHO AGREE TO SERVE IN HARD-TO-FILL
 3 POSITIONS.—(1) In order to recruit and retain physicians
 4 in the Administration in hard-to-fill positions (as des-
 5 ignated by the Secretary for purposes of this subsection),
 6 the Secretary shall reimburse individuals who are enrolled
 7 in a course of education leading toward board certification
 8 as a physician for the tuition charged for pursuit of such
 9 course of education if such individuals agree to serve as
 10 a physician in an Administration facility in such a posi-
 11 tion.

12 “(2) Each individual seeking tuition reimbursement
 13 under paragraph (1) shall enter into an agreement with
 14 the Secretary regarding such tuition reimbursement.
 15 Under the agreement, the individuals shall agree—

16 “(A) to satisfactorily complete the course of
 17 education of the individual described in paragraph
 18 (1); and

19 “(B) upon completion of the course of edu-
 20 cation, to become board-certified as a physician; and

21 “(C) upon completion of the matters referred to
 22 in subparagraphs (A) and (B)—

23 “(i) to perform satisfactory service in a
 24 physician position specified in the agreement in
 25 an Administration facility specified in the

1 agreement for such period of years as the
2 agreement shall specify; and

3 “(ii) to possess and retain for the period of
4 the agreement such professional qualifications
5 as are necessary for the service specified under
6 clause (i).

7 “(3) The amount of reimbursement payable to an in-
8 dividual under paragraph (1) for a year may not exceed
9 \$30,000.

10 “(4) Any individual receiving tuition reimbursement
11 under paragraph (1) who does not satisfy the require-
12 ments of the agreement under paragraph (2) shall be sub-
13 ject to such repayment requirements as the Secretary shall
14 specify in the agreement.

15 “(5) An individual receiving tuition reimbursement
16 under paragraph (1) for pursuit of a course of education
17 shall also be paid a stipend in the amount of \$5,000 for
18 each academic year of pursuit of such course of education
19 after entry into an agreement under paragraph (2).

20 “(c) PARTICIPATION IN FEHBP OF PHYSICIANS
21 WHO SERVE PART-TIME IN HARD-TO-FILL POSITIONS.—

22 (1) In order to recruit and retain physicians in the Admin-
23 istration in hard-to-fill positions (as designated by the Sec-
24 retary for purposes of this subsection), an individual not
25 otherwise eligible for health insurance under chapter 89

1 of title 5 who agrees to serve as a physician in an Adminis-
 2 tration facility in such a position for not less than five
 3 days per month (of which two days must occur in each
 4 14-day period) shall be eligible for enrollment in the health
 5 benefit plans under chapter 89 of title 5 on a self only
 6 or self and family basis (as applicable).

7 “(2) The Secretary shall administer this subsection
 8 in consultation with the Director of the Office of Per-
 9 sonnel Management.

10 “(d) ADDITIONAL PROGRAMS.—It is the sense of
 11 Congress that the Secretary should undertake active and
 12 on-going efforts to establish additional incentive programs
 13 to encourage individuals to serve in the position of physi-
 14 cian in the Administration, or otherwise practice in the
 15 Administration, in hard-to-fill positions, including, in par-
 16 ticular, incentive programs to encourage more experienced
 17 physicians to serve or practice in such positions.

18 “(e) CONSTRUCTION.—The incentives required under
 19 this section are in addition to any other special pays or
 20 benefits to which the individuals covered by this section
 21 are eligible or entitled under law.”.

22 (2) CLERICAL AMENDMENT.—The table of sec-
 23 tions at the beginning of chapter 74 of such title is
 24 amended by inserting after the item relating to sec-
 25 tion 731 the following new item:

“7431A. Physicians: additional incentives for service in hard-to-fill positions.”.

1 (b) AFFILIATION OF DEPARTMENT OF VETERANS
2 AFFAIRS MEDICAL FACILITIES WITH MEDICAL
3 SCHOOLS.—The Secretary of Veterans Affairs shall, to the
4 extent practicable, require each medical facility of the De-
5 partment of Veterans Affairs to seek to establish an affili-
6 ation with a medical school within reasonable proximity
7 of such medical facility.

8 **SEC. 5. REPORTS TO CONGRESS.**

9 (a) REPORT.—Not later than December 15, 2009,
10 and each year thereafter through 2012, the Secretary of
11 Veterans Affairs shall submit to the congressional vet-
12 erans affairs committees a report on the implementation
13 of this Act and the amendments made by this Act during
14 the preceding fiscal year. Each report shall include, for
15 the fiscal year covered by such report, the following:

16 (1) A comprehensive description of the imple-
17 mentation of this Act and the amendments made by
18 this Act.

19 (2) Such recommendations as the Secretary
20 considers appropriate for legislative or administra-
21 tive action to improve the authorities and require-
22 ments in this Act and the amendments made by this
23 Act or to otherwise improve the quality of health
24 care and the quality of the physicians in the Vet-
25 erans Health Administration.

1 (b) CONGRESSIONAL VETERANS AFFAIRS COMMIT-
2 TEES DEFINED.—In this section, the term “congressional
3 veterans affairs committees” means—

4 (1) the Committees on Veterans’ Affairs and
5 Appropriations of the Senate; and

6 (2) the Committees on Veterans’ Affairs and
7 Appropriations of the House of Representatives.

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