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H. R. 5618

To establish a pilot program to improve the management and accountability within the Veterans Health Administration of the Department of Veterans Affairs, to provide oversight of the Veterans Health Administration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2014

Mr. KILMER (for himself, Mr. CUELLAR, Mr. CARNEY, Mr. BARBER, and Mr. GALLEGOS) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a pilot program to improve the management and accountability within the Veterans Health Administration of the Department of Veterans Affairs, to provide oversight of the Veterans Health Administration, 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 Ad-
5 ministration Management Improvement Act”.

1 **SEC. 2. COMPTROLLER GENERAL MANAGEMENT REVIEW**
2 **OF VETERANS HEALTH ADMINISTRATION.**

3 (a) MANAGEMENT REVIEW.—

4 (1) IN GENERAL.—During the five-year period
5 beginning on the date of the enactment of this Act,
6 the Comptroller General of the United States shall
7 conduct a management review of the Veterans
8 Health Administration of the Department of Vet-
9 erans Affairs.

10 (2) MATTERS INCLUDED.—The management
11 review under paragraph (1) shall include a review,
12 with respect to the Veterans Health Administration,
13 of the following:

14 (A) The management structure, including
15 the roles and responsibilities among the various
16 organizational components (local facilities, re-
17 gional networks, and the central office).

18 (B) The oversight of core functions, includ-
19 ing the extent to which lines of accountability
20 are clearly delineated.

21 (C) The evaluation plan, operations, and
22 capacity to implement results-based strategic
23 planning.

24 (D) The extent to which contractors are
25 used and monitored to support core manage-
26 ment functions.

1 (E) Internal communication mechanisms,
2 including expectations for communications, that
3 support the mission.

4 (F) The setting of priorities and the moni-
5 toring of such priorities.

6 (G) Budgeting and resource allocation
7 processes.

8 (H) Workforce planning.

9 (I) Human capital processes, including
10 training activities, to ensure timely hiring and
11 effective retention of a qualified workforce.

12 (J) Information technology to support core
13 functions and activities.

14 (K) How each of the matters described in
15 subparagraphs (A) through (J) may differ for
16 rural medical facilities of the Department of
17 Veterans Affairs.

18 (L) Incentives, including any perverse in-
19 centives, affecting employee actions, quality of
20 care, and the provision of services.

21 (M) Insights from employees and employee
22 representatives about the work environment and
23 the level of engagement of such employees as
24 can be derived from the results of the annual
25 Federal employee survey and other internal sur-

veys administered by the Secretary of Veterans Affairs.

(N) Insights on the findings of the Comptroller General from veteran service organizations, organizations representing employees of the Veterans Health Administration, other stakeholders, and the Management and Accountability Ombudsman described in section 312B of title 38, United States Code, as added by section 4.

(b) REPORTS.—Not later than one year after the date of the enactment of this Act, and annually thereafter for a four-year period, the Comptroller General shall submit to Congress one or more reports that include—

(1) the matters reviewed under subsection (a)(1); and

(2) recommendations of the Comptroller General based on such matters.

SEC. 3. PILOT PROGRAM TO IMPROVE MANAGEMENT AND ACCOUNTABILITY OF VETERANS HEALTH ADMINISTRATION.

(a) ESTABLISHMENT.—The Secretary of Veterans Affairs shall establish a pilot program to improve the management and accountability within the Veterans Health Administration.

1 (b) GOALS OF PILOT PROGRAM.—The Secretary shall
2 carry out the pilot program under subsection (a) in a man-
3 ner that ensures that—

4 (1) the employees of the Veterans Health Ad-
5 ministration have an opportunity to learn, imple-
6 ment, and identify successful means of advancing
7 the management of the Veterans Health Administra-
8 tion and the delivery of care and services; and

9 (2) the management and delivery of care and
10 services at medical facilities of the Department is
11 improved by implementing the recommendations of
12 the Comptroller General of the United States based
13 on the management review conducted under section
14 2, and any other appropriate recommendations, with
15 respect to the planning and evaluation capabilities of
16 the Veteran Health Administration.

17 (c) APPLICATION OF CERTAIN LAWS DURING PILOT
18 PROGRAM.—

19 (1) APPLICATION OF PERFORMANCE PLAN RE-
20 QUIREMENTS.—During the period in which the Sec-
21 retary carries out the pilot program under sub-
22 section (a), the Secretary shall carry out section
23 1115(b) of title 31, United States Code, as follows:

24 (A) In paragraph (2), by substituting “,
25 unless authorized to be in an alternative form

1 under subsection (c), and situate each goal in
2 the context of its own logic modeling of how the
3 operations and activities of the agency, in co-
4 ordination with any significant operations and
5 activities from external entities, will contribute
6 toward achieving the goals and responsibilities
7 of the agency;” for “unless authorized to be in
8 an alternative form under subsection (c);”.

9 (B) By including in the agency perform-
10 ance plan described in such section 1115(b), for
11 each performance goal covered by the plan, an
12 identification and assessment of the risks of
13 creating new, or perpetuating existing, perverse
14 incentives, and strategies for risk assessment,
15 monitoring, and mitigation, using a suitable
16 risk management approach.

17 (2) APPLICATION OF PERFORMANCE REPORT-
18 ING REQUIREMENTS.—During the period in which
19 the Secretary carries out the pilot program under
20 subsection (a), the Secretary shall carry out sub-
21 section (c) of section 1116 of title 31, United States
22 Code, by including in the update required by such
23 subsection statistical information regarding the Vet-
24 erans Health Administration that—

1 (A) is useful to multiple stakeholders for
2 internal management and external oversight;
3 and

4 (B) provides insight into how programs are
5 planned, financed, and managed, regarding—

6 (i) the population of veterans, impor-
7 tant subgroups thereof, and the status of
8 such veterans;

9 (ii) the capacity of the operations of
10 the Veterans Health Administration under
11 enacted resource levels, listed by important
12 subcategories as appropriate; and

13 (iii) the workload of the Veterans
14 Health Administration, listed by important
15 subcategories as appropriate.

16 (3) APPLICATION OF FUNCTIONS OF CHIEF OP-
17 ERATING OFFICER.—During the period in which the
18 Secretary carries out the pilot program under sub-
19 section (a), the Secretary shall carry out section
20 1123(b)(1) of title 31, United States Code, by sub-
21 stituting “strategic and performance planning,
22 measurement, evaluation, analysis, regular assess-
23 ment of progress, risk management (including the
24 risks of perverse incentives), and use of performance
25 information to improve the results achieved” for

1 “strategic and performance planning, measurement,
2 analysis, regular assessment of progress, and use of
3 performance information to improve the results
4 achieved”.

5 (d) EVALUATION PLAN.—The Secretary shall pre-
6 pare an annual organization evaluation plan for the Vet-
7 erans Health Administration that is informed by the rec-
8 ommendations of the Comptroller General based on the
9 management review conducted under section 2.

10 (e) ASSISTANCE IN PILOT PROGRAM.—The Manage-
11 ment and Accountability Ombudsman described in section
12 312B of title 38, United States Code, as added by section
13 4(a), shall assist in the pilot program under subsection
14 (a) by—

15 (1) identifying areas in which employees of the
16 Department have problems implementing the pilot
17 program, including application of logic modeling,
18 managing risk of perverse incentives, and other
19 issues that the Ombudsman determine appropriate;

20 (2) to the extent practicable, proposing changes
21 in the administrative practices of the implementation
22 of the pilot program to mitigate problems identified
23 under paragraph (1); and

24 (3) reviewing, examining, and making rec-
25 ommendations regarding logic modeling policies,

1 strategies, and programs of the Veterans Health Ad-
2 ministration.

3 (f) BRIEFINGS.—

4 (1) INITIAL BRIEFING.—Not later than 90 days
5 before the Secretary commences the pilot program
6 under subsection (a), the Secretary shall provide to
7 the Committees on Veterans' Affairs of the House of
8 Representatives and the Senate and the Comptroller
9 General a briefing on—

10 (A) a logic model of how the features of
11 the pilot program will address the problems
12 identified in the management review conducted
13 under section 2; and

14 (B) such other items as the Secretary de-
15 termines appropriate.

16 (2) UPDATES.—Not later than 240 days after
17 the Secretary commences the pilot program under
18 subsection (a), and annually thereafter during the
19 period in which the Secretary carries out the pilot
20 program, the Secretary shall provide to the Commit-
21 tees on Veterans' Affairs of the House of Represent-
22 atives and the Senate and the Comptroller General
23 a briefing on—

24 (A) an evaluation of the implementation
25 and effectiveness of carrying out this section,

1 including any challenges encountered and les-
2 sons learned;

3 (B) planned actions to improve the success
4 of the pilot program, including a milestone plan
5 for such actions; and

6 (C) such other items as the Secretary de-
7 termines appropriate.

8 (g) DURATION.—The Secretary shall—

9 (1) commence the pilot program under sub-
10 section (a) by not later than 180 days after the date
11 on which the Comptroller General submits the report
12 under section 2(b); and

13 (2) carry out the pilot program for a period of
14 five years.

15 (h) DEFINITIONS.—In this section:

16 (1) The term “logic modeling” means an ap-
17 proach, also referred to as program theory, program
18 modeling, or theory of change, that articulates the
19 assumptions of the strategy or tactics of a program
20 or activity and how such strategy or tactics relate to
21 the benefits that the program or activity is expected
22 to contribute toward in order to achieve certain
23 goals, objectives or responsibilities, and may in-
24 clude—

1 (A) the mapping of direct and indirect re-
2 lationships among relevant resources, activities,
3 milestones, outputs, intermediate outcomes, and
4 end outcomes; and

5 (B) if significant coordination or coopera-
6 tion with entities external to a program or ac-
7 tivity may contribute to achieving the relevant
8 goals, objectives, or responsibilities, the map-
9 ping of the roles of entities external to the pro-
10 gram or activity.

11 (2) The term “risk management” means the
12 processes that are used to identify, assess, monitor,
13 mitigate, and report on risks to achieving the mis-
14 sions, goals, and objectives of a department, agency,
15 or program using resources and processes appro-
16 priate to the nature of risks and resources available.

17 **SEC. 4. MANAGEMENT AND ACCOUNTABILITY OMBUDSMAN.**

18 (a) IN GENERAL.—Chapter 3 of title 38, United
19 States Code, is amended by inserting after section 312A
20 the following new section:

21 **“§ 312B. Management and accountability ombudsman**

22 “(a) IN GENERAL.—(1) There is in the Department
23 an Office of the Management and Accountability Ombuds-
24 man (in this section referred to as the ‘Office’). There is
25 at the head of the Office an Ombudsman, who shall be

1 appointed by the President from among individuals with
2 a background in enterprise risk management.

3 “(2) The Ombudsman shall report directly to the Sec-
4 retary but the Secretary may not prevent or prohibit the
5 Ombudsman from initiating, carrying out, or completing
6 any responsibility of the Ombudsman.

7 “(3) The Secretary shall determine the appropriate
8 level of staffing and distribution of responsibility to ensure
9 the success of the Office.

10 “(4) The President shall include in the budget trans-
11 mitted to the Congress for each fiscal year pursuant to
12 section 1105 of title 31 an estimate of the amount for
13 the Office that is sufficient to provide for a number of
14 full-time positions in the Office.

15 “(b) RESPONSIBILITIES.—The Ombudsman shall—

16 “(1) receive and address reports from employ-
17 ees and employee representatives of the Veterans
18 Health Administration Affairs and assist in resolv-
19 ing problems with the management, administration,
20 and delivery of care of the Veterans Health Agency;

21 “(2) communicate to the Secretary the observa-
22 tions and findings received pursuant to paragraph
23 (1);

24 “(3) conduct inspections of medical facilities of
25 the Veterans Health Administration, including non-

1 Department facilities that provide care pursuant to
2 a contract entered into under chapter 17 of this title
3 as necessary;

4 “(4) establish a program under which the Om-
5 budsman and the Secretary shall—

6 “(A) provide incentives to employees of the
7 Veterans Health Administration who suggest
8 methods to improve the management and oper-
9 ations of the Veterans Health Administration;

10 “(B) carry out in a pilot program the sug-
11 gestions that are likely to be successful; and

12 “(C) if such a pilot program demonstrates
13 that a suggestion causes a marked improvement
14 in such management and operations—

15 “(i) reward the employee who made
16 such suggestion; and

17 “(ii) carry out such suggestion
18 throughout the Veterans Health Adminis-
19 tration; and

20 “(5) not less frequently than once each calendar
21 quarter, provide to the Secretary a summary and
22 relevant statistics concerning the activities and find-
23 ings of the Ombudsman, including a summary of the
24 suggestions made and carried out pursuant to para-
25 graph (4).

1 “(c) REQUEST FOR INVESTIGATIONS.—The Ombuds-
2 man may request the Inspector General of the Department
3 to conduct an inspection, investigation, or audit. Upon
4 such a request, the Inspector General shall respond to the
5 Ombudsman explaining the plan of the Inspector General
6 to comply with such request or the rationale of the Inspec-
7 tor General for denying such request.

8 “(d) COORDINATION.—The Secretary shall ensure
9 that each element of the Department has procedures to
10 provide the Ombudsman with formal responses to any rec-
11 ommendation submitted by the Ombudsman to the head
12 of such element.

13 “(e) ANNUAL REPORTS.—Not later than June 30 of
14 each year, the Ombudsman shall submit to the Commit-
15 tees on Veterans’ Affairs of the Senate and the House of
16 Representatives a report on the objectives of the Ombuds-
17 man for the fiscal year beginning in such calendar year.
18 Each report shall—

19 “(1) contain a full and substantive analysis, in
20 addition to statistical information; and

21 “(2) set forth any recommendations the Om-
22 budsman has made on improving the management
23 and accountability of the employees of the Depart-
24 ment and any responses received under subsection

1 (d) with respect to the estimates described in section
2 117(b) of this title.

3 “(f) RISK MANAGEMENT DEFINED.—In this section,
4 the term ‘risk management’ means the processes that are
5 used to identify, assess, monitor, mitigate, and report on
6 risks to achieving a the mission, goals, and objectives of
7 a department, agency, or program using resources and
8 processes appropriate to the nature of risks and resources
9 available.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of such chapter is amended by inserting
12 after the item relating to section 312A the following new
13 item:

“312B. Management and Accountability Ombudsman.”.

14 (c) COMPTROLLER GENERAL REPORTS.—The Comp-
15 troller General of the United States shall review each
16 budget of the President submitted to Congress under sec-
17 tion 1105 of title 31 during 2015 through 2020 to evalu-
18 ate the proposed budget for health care provided by the
19 Secretary of Veterans Affairs. The Comptroller General
20 shall submit to the Committees on Veterans’ Affairs of
21 the Senate and the House of Representatives a report con-
22 taining the results of each such review, at such times and
23 with such additional matters as the Comptroller General
24 determines appropriate in consultation with such commit-
25 tees.

1 **SEC. 5. VETERANS' BILL OF RIGHTS.**

2 (a) DISPLAY.—The Secretary of Veterans Affairs
3 shall ensure that the Veterans' Bill of Rights described
4 in subsection (e) is printed on signage in accessible for-
5 mats and displayed prominently and conspicuously in each
6 medical facility of the Department of Veterans Affairs in
7 accordance with subsection (c).

8 (b) EDUCATION OF DEPARTMENT EMPLOYEES.—
9 The Secretary shall ensure that employees of the Depart-
10 ment receive training on the Veterans' Bill of Rights de-
11 scribed in subsection (e).

12 (c) OUTREACH.—The Secretary shall conduct out-
13 reach to inform veterans about the Veterans' Bill of
14 Rights described in subsection (e) by—

15 (1) ensuring that such Bill of Rights is avail-
16 able on the Internet website of the Department and
17 prominently displayed (using posters printed in a
18 large type that allows for individuals with 20/20 vi-
19 sion to read the print from 10 feet away) in public
20 spaces, lobbies, visitor centers, clinic waiting rooms,
21 and patient sitting rooms of the Department;

22 (2) briefing patients about such Bill of Rights
23 when the patient enrolls in the system of patient en-
24 rollment system under section 1705 of title 38,
25 United States Code; and

1 (3) conducting other types of outreach targeted
2 at specific groups of veterans, which may include, at
3 a minimum, outreach conducted on other Internet
4 websites or through veterans service organizations,
5 health fairs, and the Veterans Health Administra-
6 tion Veterans Center outreach program.

7 (d) IMPLEMENTATION.—The Secretary shall ensure
8 that the Veterans Health Administration honors the rights
9 described in subsection (e).

10 (e) VETERANS' BILL OF RIGHTS.—The Veterans'
11 Bill of Rights described in this subsection is a statement
12 that veterans should have, at a minimum and in addition
13 to the rights covered by section 17.33 of title 38, Code
14 of Federal Regulations, the following rights:

15 (1) The right to access the highest quality care,
16 including the right to the most appropriate tech-
17 nology and qualified practitioners.

18 (2) The right to continuity of care in the transi-
19 tion from the health program of the Department of
20 Defense to the health care system of the Depart-
21 ment of Veterans Affairs.

22 (3) The right to receive assistance in under-
23 standing the available benefits and services to which
24 the veteran is entitled.

1 (4) The right to receive a careful explanation of
2 a proposed diagnostic or therapeutic procedure or
3 course of treatment by the appropriate medical prac-
4 titioner, including with respect to the risks, com-
5 plications, alternatives, and results.

6 (5) The right to ask questions concerning
7 health treatment.

8 (f) VETERANS' BILL OF RIGHTS.—The Veterans' Bill
9 of Rights described in this subsection is a statement that
10 veterans who receive health care provided under the laws
11 administered by the Secretary of Veterans Affairs should
12 have, at a minimum, the following rights (to the extent
13 of the eligibility and enrollment of the veteran for such
14 health care):

15 (1) The right to access the highest quality care,
16 including the right to the most appropriate tech-
17 nology and qualified practitioners.

18 (2) The right to know what rules and regula-
19 tions apply to patients.

20 (3) The right to continuity of care in the transi-
21 tion from the health program of the Department of
22 Defense to the health care system of the Depart-
23 ment of Veterans Affairs.

24 (4) The right to receive careful explanation of
25 proposed diagnostic or therapeutic procedures or

1 courses of treatment by the responsible medical per-
2 sonnel, including with respect to risks, complica-
3 tions, alternative health practices, results, informa-
4 tion and reasoning for prescribed pain management
5 plans, and a daily review of the medical chart of the
6 patient.

7 (5) The right for the patient to ask questions
8 and be involved in all decisions regarding the care
9 received by the patient.

10 (6) The right to a second opinion or change of
11 provider, if available.

12 (7) The right to know the reason for any
13 change in medical practitioners responsible for the
14 care of the patient.

15 (8) The right to know the identity and profes-
16 sional status of individuals providing service and to
17 know who is primarily responsible for the care of the
18 patient.

19 (9) The right to not be transferred to another
20 facility, organization, or department unless the pa-
21 tient receives a complete explanation for the need,
22 was notified of alternatives, and the receiving orga-
23 nization, facility, or department is ready to accept
24 the transfer.

1 (10) The right to receive considerate, respectful
2 care at all times and under all circumstances with
3 recognition of personal dignity, diversity, and reli-
4 gious, or other spiritual and cultural preferences.

5 (11) The right, in accordance with relevant pro-
6 visions of law, to personal and informational con-
7 fidentiality and privacy in the discussion of the care
8 and management of records of patients.

9 (12) The right to visitors within the policies of
10 the facility and to be informed of the visitation
11 rights, including any clinically necessary restrictions.

12 (13) The right to be free from all forms of
13 abuse or harassment.

14 (14) The right to access protective and advo-
15 cacy services, when available, and file grievances.

16 (15) The right to remain free of chemical and
17 physical restraints unless safety requires otherwise.

18 (16) The right to care provided in a safe and
19 clean setting, free from excessive noise and with suf-
20 ficient lighting for comfort and safety.

