

114TH CONGRESS
2D SESSION

H. R. 4591

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into agreements with certain health care providers to furnish hospital care, medical services, and extended care to veterans.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 2016

Mr. MILLER of Florida introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into agreements with certain health care providers to furnish hospital care, medical services, and extended care to veterans.

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 “Department of Vet-
5 erans Affairs Purchased Health Care Streamlining and
6 Modernization Act”.

1 **SEC. 2. AGREEMENTS.**

2 (a) IN GENERAL.—Subchapter I of chapter 17 of title
3 38, United States Code, is amended by inserting after sec-
4 tion 1703 the following new section:

5 **“§ 1703A. Veterans Care Agreements with certain**
6 **health care providers**

7 “(a) VETERANS CARE AGREEMENTS.—(1) In addi-
8 tion to furnishing hospital care, medical services, or ex-
9 tended care under this chapter at facilities of the Depart-
10 ment or under contracts or sharing agreements entered
11 into pursuant to provisions of law other than this section,
12 the Secretary may furnish such care and services to eligi-
13 ble veterans through the use of agreements entered into
14 under this section by the Secretary with eligible providers.

15 “(2) The Secretary may enter into Veterans Care
16 Agreements under this section with eligible providers to
17 furnish hospital care, medical services, and extended care
18 to veterans whom the Secretary determines that fur-
19 nishing such care and services at facilities of the Depart-
20 ment or under contracts or sharing agreements under pro-
21 visions of law other than this section is impracticable or
22 inadvisable because of the medical condition of the vet-
23 eran, the travel involved, or the nature of the care or serv-
24 ices required, or a combination of such factors.

25 “(b) VETERAN ELIGIBILITY.—Eligibility of a veteran
26 for care and services under this section shall be deter-

1 mined as if such care or services were furnished in a facil-
2 ity of the Department, and provisions of this title applica-
3 ble to veterans receiving such care and services in a facility
4 of the Department shall apply to veterans receiving care
5 and services under this section.

6 “(c) PROVIDER ELIGIBILITY.—Subject to the certifi-
7 cation process pursuant to subsection (d)(1), a provider
8 of hospital care, medical services, or extended care is eligi-
9 ble to enter into a Veterans Care Agreement under this
10 section if the Secretary determines that the provider meets
11 each of the following criteria:

12 “(1) The gross annual revenue of the provider
13 in the year preceding the year in which the provider
14 enters into the Veterans Care Agreement does not
15 exceed \$11,000,000 (as adjusted in a manner simi-
16 lar to amounts adjusted pursuant to section 5312 of
17 this title).

18 “(2) The provider does not otherwise provide
19 such care or services to patients pursuant to a con-
20 tract entered into with a department or agency of
21 the Federal Government.

22 “(3) The provider is—

23 “(A) a provider of services that has en-
24 rolled and entered into a provider agreement

1 under section 1866(a) of the Social Security
2 Act (42 U.S.C. 1395cc(a));

3 “(B) a physician or supplier that has en-
4 rolled and entered into a participation agree-
5 ment under section 1842(h) of such Act (42
6 U.S.C. 1395u(h));

7 “(C) a provider of items and services re-
8 ceiving payment under a State plan under title
9 XIX of such Act (42 U.S.C. 1396 et seq.) or
10 a waiver of such a plan;

11 “(D) an Aging and Disability Resource
12 Center, an area agency on aging, or a State
13 agency (as defined in section 102 of the Older
14 Americans Act of 1965 (42 U.S.C. 3002)); or

15 “(E) a center for independent living (as
16 defined in section 702 of the Rehabilitation Act
17 of 1973 (29 U.S.C. 796a)).

18 “(4) Any additional criteria determined appro-
19 priate by the Secretary.

20 “(d) PROVIDER CERTIFICATION.—(1) The Secretary
21 shall establish a process for the certification of eligible
22 providers to enter into Veterans Care Agreements under
23 this section that shall, at a minimum, set forth the fol-
24 lowing:

1 “(A) Procedures for the submission of applica-
2 tions for certification and deadlines for actions taken
3 by the Secretary with respect to such applications.

4 “(B) Standards and procedures for the ap-
5 proval and denial of certifications and the revocation
6 of certifications.

7 “(C) Procedures for assessing eligible providers
8 based on the risk of fraud, waste, and abuse of such
9 providers similar to the level of screening under sec-
10 tion 1866(j)(2)(B) of the Social Security Act (42
11 U.S.C. 1395(j)(2)(B)) and the standards set forth
12 under section 9.104 of title 48, Code of Federal
13 Regulations, or any successor regulation.

14 “(D) Requirement for denial or revocation of
15 certification if the Secretary determines that the
16 otherwise eligible provider is—

17 “(i) excluded from participation in a Fed-
18 eral health care program (as defined in section
19 1128B(f) of the Social Security Act (42 U.S.C.
20 1320a–7b(f))) under section 1128 or 1128A of
21 the Social Security Act (42 U.S.C. 1320a–7
22 and 1320a–7a); or

23 “(ii) identified as an excluded source on
24 the list maintained in the System for Award
25 Management, or any successor system.

1 “(E) Procedures by which a provider whose cer-
2 tification is denied or revoked under the procedures
3 established under this subsection will be identified as
4 an excluded source on the list maintained in the Sys-
5 tem for Award Management, or successor system, if
6 the Secretary determines that such exclusion is ap-
7 propriate.

8 “(2) To the extent practicable, the Secretary shall es-
9 tablish the procedures under paragraph (1) in a manner
10 that takes into account any certification process adminis-
11 tered by another department or agency of the Federal
12 Government that an eligible provider has completed by
13 reason of being a provider described in any of subpara-
14 graphs (A) through (E) of subsection (c)(3).

15 “(e) TERMS OF AGREEMENTS.—The Secretary shall
16 ensure that each Veterans Care Agreement include provi-
17 sions requiring the eligible provider to do the following:

18 “(1) To accept payment for care and services
19 furnished under this section at rates established by
20 the Secretary for purposes of this section, which
21 shall be, to the extent practicable—

22 “(A) the rates paid by the United States
23 for such care to providers of services and sup-
24 pliers under the Medicare program under title

1 XVIII of the Social Security Act (42 U.S.C.
2 1395 et seq.);

3 “(B) the rates paid by the United States
4 pursuant to the Alaska Fee Schedule of the De-
5 partment of Veterans Affairs;

6 “(C) the rates paid by the United States
7 pursuant to an All-Payer Model Agreement
8 under the Social Security Act; or

9 “(D) the rates paid by the United States
10 in a highly rural area pursuant to section
11 101(d)(2)(B)(ii)(I) of the Veterans Access,
12 Choice, and Accountability Act of 2014 (38
13 U.S.C. 1701 note).

14 “(2) To accept payment under paragraph (1) as
15 payment in full for care and services furnished
16 under this section and to not seek any payment for
17 such care and services from the recipient of such
18 care.

19 “(3) To furnish under this section only the care
20 and services authorized by the Department under
21 this section unless the eligible provider receives prior
22 written consent from the Department to furnish care
23 and services outside the scope of such authorization.

24 “(4) To bill the Department for care and serv-
25 ices furnished under this section in accordance with

1 a methodology established by the Secretary for pur-
2 poses of this section.

3 “(5) Not to seek to recover or collect from a
4 health-plan contract or third party (as those terms
5 are defined in section 1729 of this title) for any care
6 or services for which payment is made by the De-
7 partment under this section.

8 “(6) To provide medical records for veterans
9 furnished care and services under this section to the
10 Department in a timeframe and format specified by
11 the Secretary for purposes of this section, except the
12 Secretary may not require that any payment by the
13 Secretary to the eligible provider be contingent on
14 such provision of medical records.

15 “(7) To meet other such terms and conditions,
16 including quality of care assurance standards, as the
17 Secretary may specify for purposes of this section.

18 “(f) EXCLUSION OF CERTAIN FEDERAL CON-
19 TRACTING PROVISIONS.—(1) Notwithstanding any other
20 provision of law, the Secretary may enter into a Veterans
21 Care Agreement using procedures other than competitive
22 procedures.

23 “(2)(A) Except as provided in subparagraph (B) and
24 unless otherwise provided in this section, an eligible pro-
25 vider that enters into a Veterans Care Agreement under

1 this section is not subject to, in the carrying out of the
2 agreement, any provision of law that providers of services
3 and suppliers under the original Medicare fee-for-service
4 program under parts A and B of title XVIII of the Social
5 Security Act (42 U.S.C. 1395 et seq.) or the Medicaid pro-
6 gram under title XIX of such Act (42 U.S.C. 1396 et seq.)
7 are not subject to.

8 “(B) In addition to the provisions of laws covered by
9 subparagraph (A), an eligible provider shall be subject to
10 the following provisions of law:

11 “(i) Any applicable law regarding integrity, eth-
12 ics, or fraud, or that subject a person to civil or
13 criminal penalties.

14 “(ii) Section 431 of title 18.

15 “(iii) Section 1352 of title 31, except for the fil-
16 ing requirements under subsection (b) of such sec-
17 tion.

18 “(iv) Section 4705 or 4712 of title 41, and any
19 other applicable law regarding the protection of
20 whistleblowers.

21 “(v) Section 4706(d) of title 41.

22 “(vi) Title VII of the Civil Rights Act of 1964
23 (42 U.S.C. 2000e et seq.) to the same extent as
24 such title applies with respect to the eligible provider
25 in providing care or services through an agreement

1 or arrangement other than under a Veterans Care
2 Agreement.

3 “(C) An eligible provider that receives a payment
4 from the Federal Government pursuant to a Veterans
5 Care Agreement shall not be treated as a Federal con-
6 tractor or subcontractor by the Office of Federal Contract
7 Compliance Programs of the Department of Labor based
8 on the work performed or actions taken by such eligible
9 provider that resulted in the receipt of such payments.

10 “(g) TERMINATION OF VETERANS CARE AGREE-
11 MENT.—(1) An eligible provider may terminate a Veterans
12 Care Agreement with the Secretary under this section at
13 such time and upon such notice to the Secretary as the
14 Secretary may specify for purposes of this section.

15 “(2) The Secretary may terminate a Veterans Care
16 Agreement with an eligible provider under this section at
17 such time and upon such notice to the eligible provider
18 as the Secretary may specify for the purposes of this sec-
19 tion, if the Secretary—

20 “(A) determines that the eligible provider failed
21 to comply with the provisions of the agreement or
22 this section or other applicable provision of law;

23 “(B) makes a revocation pursuant to subsection
24 (d)(1)(4);

1 “(C) ascertains that the eligible provider has
2 been convicted of a felony or other serious offense
3 under Federal or State law and determines that the
4 continued participation of the eligible provider would
5 be detrimental to the best interests of veterans of
6 the Department; or

7 “(D) determines that it is reasonable to termi-
8 nate the agreement based on the health care needs
9 of veterans.

10 “(h) DURATION; MANDATORY REVIEWS.—(1) Each
11 Veterans Care Agreement entered into under this section
12 shall be for a two-year period unless the Secretary extends
13 the agreement pursuant to paragraph (2)(B).

14 “(2)(A) During the 180-day period beginning 540
15 days after the date on which a Veterans Care Agreement
16 is entered into or renewed, the Secretary shall review the
17 agreement to determine whether it is feasible and advis-
18 able to instead furnish the hospital care, medical services,
19 or extended care furnished under the agreement at facili-
20 ties of the Department or through contracts or sharing
21 agreements entered into under authorities other than this
22 section.

23 “(B) If the Secretary determines under subparagraph
24 (A) that it is not feasible and advisable to instead furnish
25 hospital care, medical services, or extended care furnished

1 under a Veterans Care Agreement at facilities of the De-
2 partment or through contracts or sharing agreements en-
3 tered into under authorities other than this section, the
4 Secretary—

5 “(i) shall prepare a written memorandum of
6 such determination; and

7 “(ii) may renew such agreement.

8 “(i) DISPUTES.—(1) The Secretary shall establish
9 administrative procedures for eligible providers with which
10 the Secretary has entered into a Veterans Care Agreement
11 to present any dispute arising under or related to the
12 agreement.

13 “(2) Before using any dispute resolution mechanism
14 under chapter 71 of title 41 with respect to a dispute aris-
15 ing under a Veterans Care Agreement under this section,
16 an eligible provider must first exhaust the administrative
17 procedures established by the Secretary under paragraph
18 (1).

19 “(j) ANNUAL REPORTS.—Not later than October 1
20 of the year following the fiscal year in which the Secretary
21 first enters into a Veterans Care Agreement, and each
22 year thereafter, the Secretary shall submit to the appro-
23 priate congressional committees an annual report that in-
24 cludes—

1 “(1) a list of all Veterans Care Agreements en-
2 tered into as of the date of the report; and

3 “(2) summaries of each determination made by
4 the Secretary under subsection (h)(2) during the fis-
5 cal year covered by the report.

6 “(k) QUALITY OF CARE.—In carrying out this sec-
7 tion, the Secretary shall use the quality of care standards
8 set forth or used by the Centers for Medicare & Medicaid
9 Services.

10 “(l) DELEGATION.—The Secretary may delegate the
11 authority to enter into or terminate a Veterans Care
12 Agreement, or to make a determination described in sub-
13 section (h)(2), at a level not below the Assistant Deputy
14 Under Secretary for Health for Community Care.

15 “(m) SUNSET.—The Secretary may not enter into or
16 renew a Veterans Care Agreement under this section after
17 the date that is five years after the enactment of this Act.

18 “(n) DEFINITIONS.—In this section:

19 “(1) The term ‘appropriate congressional com-
20 mittees’ means—

21 “(A) the Committees on Veterans’ Affairs
22 of the House of Representatives and the Sen-
23 ate; and

24 “(B) the Committees on Appropriations of
25 the House of Representatives and the Senate.

1 “(2) The term ‘eligible provider’ means a pro-
 2 vider of hospital care, medical services, or extended
 3 care that the Secretary determines is eligible to
 4 enter into Veterans Care Agreements under sub-
 5 section (c).

6 “(3) The term ‘Veterans Care Agreement’
 7 means an agreement entered into by the Secretary
 8 with an eligible provider under subsection (a)(1).”.

9 (b) CLERICAL AMENDMENT.—The table of sections
 10 at the beginning of chapter 17 of such title is amended
 11 by inserting after the item related to section 1703 the fol-
 12 lowing new item:

 “1703A. Veterans Care Agreements with certain health care providers.”.

13 (c) REGULATIONS.—Not later than one year after the
 14 date of the enactment of this Act, the Secretary of Vet-
 15 erans Affairs shall prescribe interim final regulations to
 16 implement section 1703A of title 38, United States Code,
 17 as added by subsection (a), and publish such regulations
 18 in the Federal Register.

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