

115TH CONGRESS
1ST SESSION

S. 1098

To amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from employing individuals who has been convicted of a felony and medical personnel who have had their medical licenses or credentials revoked or suspended, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 11, 2017

Mr. FLAKE 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 prohibit the Secretary of Veterans Affairs from employing individuals who has been convicted of a felony and medical personnel who have had their medical licenses or credentials revoked or suspended, 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 “Clean Up the Depart-
5 ment of Veterans Affairs Act of 2017”.

1 **SEC. 2. PROHIBITION ON EMPLOYMENT BY SECRETARY OF**
 2 **VETERANS AFFAIRS OF INDIVIDUALS CON-**
 3 **VICTED OF CERTAIN FELONIES AND MED-**
 4 **ICAL PERSONNEL WHO HAVE HAD THEIR**
 5 **MEDICAL LICENSES OR CREDENTIALS RE-**
 6 **VOKED OR SUSPENDED.**

7 (a) INDIVIDUALS CONVICTED OF FELONIES.—Sec-
 8 tion 709 of title 38, United States Code, is amended by
 9 adding at the end the following new subsections:

10 “(d)(1) Except as provided in paragraph (2), the Sec-
 11 retary may not—

12 “(A) hire in or transfer to any position at the
 13 Department any person who has been convicted of a
 14 State or Federal criminal offense—

15 “(i) for which the minimum term of im-
 16 prisonment is more than one year; and

17 “(ii) that substantially relates to the posi-
 18 tion; or

19 “(B) employ in any position at the Department
 20 any person who, after the date of the enactment of
 21 the Clean Up the Department of Veterans Affairs
 22 Act of 2017, is convicted of a criminal offense de-
 23 scribed in subparagraph (A).

24 “(2)(A) Paragraph (1) shall not apply with respect
 25 to a conviction of a State or Federal criminal offense if—

1 “(i) the records of such conviction have been ex-
2 punged pursuant to an order by a court of com-
3 petent jurisdiction; or

4 “(ii) during the 10-year period beginning on the
5 date of such conviction, the person who was con-
6 victed of such criminal offense has not been con-
7 victed of any other State or Federal criminal offense
8 for which the minimum term of imprisonment is
9 more than one year.

10 “(B) Paragraph (1) shall not apply in a case in which
11 the person being hired or transferred is being hired or
12 transferred as part of a program intended specifically to
13 help veterans who have been convicted of a State or Fed-
14 eral criminal offense for which the minimum term of im-
15 prisonment is more than one year.

16 “(3) The Director of the Office of Personnel Manage-
17 ment shall, for purposes of paragraph (1), issue guidance
18 on which criminal offenses substantially relate to which
19 positions at the Department.

20 “(4) Before hiring any individual for a position at
21 the Department, the Secretary shall conduct a background
22 check to determine whether the individual has been con-
23 victed of any offenses described in paragraph (1).”.

1 (b) PROHIBITION ON EMPLOYMENT OF INDIVIDUALS
2 WHO HAVE HAD MEDICAL LICENSES OR CREDENTIALS
3 REVOKED OR SUSPENDED.—

4 (1) IN GENERAL.—Section 7402 of such title is
5 amended by adding at the end the following new
6 subsection:

7 “(h)(1) The Secretary may not employ, transfer, or
8 hire any individual in a position listed in section 7401(1)
9 of this title who has had a license or credential relating
10 to such position revoked or suspended by a lawful licensing
11 authority pursuant to a finding by the lawful licensing au-
12 thority that the individual is dyscompetent, the individual
13 is incompetent, or the services provided by the individual
14 do not meet the standards prescribed by the lawful licens-
15 ing authority for such services.

16 “(2) Before transferring or hiring any individual in
17 a position listed in section 7401(1) of this title, the Sec-
18 retary shall conduct a background check, including by
19 searching the State medical licensing board of each State
20 in which the employee is licensed or practices and the Na-
21 tional Practitioner Databank or any successor databank,
22 to determine whether the individual has had a license or
23 credential relating to such position revoked or suspended
24 in any State.”.

1 (2) TERMINATION OF CURRENT EMPLOYEES.—

2 As soon as practicable after the date of the enact-
3 ment of this Act, the Secretary of Veterans Affairs
4 shall begin the process of terminating the employ-
5 ment of each individual employed by the Secretary
6 in violation of section 7402(h) of title 38, United
7 States Code, as added by paragraph (1).

8 (c) RELATION TO OTHER PROVISIONS OF LAW.—

9 (1) IN GENERAL.—Any provision of title 5,
10 United States Code, or subchapter V of chapter 74
11 of title 38, United States Code, otherwise applicable
12 to the termination of an employee under subsection
13 (b)(2) of this section, section 709(d) of title 38,
14 United States Code, as added by subsection (a), or
15 section 7402(h) of such title, as added by subsection
16 (b)(1), shall apply to the termination, except to the
17 extent such provision of title 5, United States Code,
18 or subchapter V of chapter 74 of title 38, United
19 States Code, conflicts with, and is superseded by,
20 subsection (b)(2) of this section, section 709(d) of
21 such title, or section 7402(h) of such title.

22 (2) MERIT SYSTEM PRINCIPLES.—The Sec-
23 retary shall carry out any termination described in
24 paragraph (1) in a manner consistent with the merit

1 system principles set forth in section 2301(b) of title
2 5, United States Code.

3 (3) LIMITATION ON PERIOD OF REVIEW OF AP-
4 PEALS.—In any case in which an appeal of a termi-
5 nation described in paragraph (1) of an employee is
6 submitted to the Merit Systems Protection Board
7 for review, the Merit Systems Protection Board shall
8 take such actions as may be necessary to ensure
9 that, notwithstanding any other provision of law, the
10 Board issues a decision on such appeal not later
11 than 30 days after the date on which the employee
12 receives notification from the Secretary of such ter-
13 mination.

14 (4) RULE OF CONSTRUCTION.—Subsection
15 (b)(2), section 709(d) of title 38, United States
16 Code, as added by subsection (a), and section
17 7402(h) of such title, as added by subsection (b)(1),
18 shall not be construed to deprive or waive for any
19 individual any employment protection or due process
20 requirement in effect on the day before the date of
21 the enactment of this Act, except as provided in
22 paragraph (1) of this subsection.

1 **SEC. 3. DISCLOSURE OF DISCIPLINARY ACTION WITH RE-**
2 **SPECT TO HEALTH CARE PROVIDERS UNDER**
3 **THE LAWS ADMINISTERED BY THE SEC-**
4 **RETARY OF VETERANS AFFAIRS.**

5 (a) DISCLOSURE OF DISCIPLINARY ACTION WITH
6 RESPECT TO HEALTH CARE EMPLOYEES.—Notwith-
7 standing section 552a of title 5, United States Code, the
8 Secretary of Veterans Affairs shall, with respect to each
9 individual appointed under section 7401 of title 38, United
10 States Code, for which disciplinary action has been taken
11 by the Secretary, provide to the State medical licensing
12 board of each State in which the individual is licensed or
13 practices, and to the National Practitioner Databank or
14 any successor databank, information regarding such dis-
15 ciplinary action.

16 (b) DISCLOSURE OF DISCIPLINARY ACTION WITH
17 RESPECT TO NON-DEPARTMENT PROVIDERS.—

18 (1) IN GENERAL.—Notwithstanding section
19 552a of title 5, United States Code, the Secretary of
20 Veterans Affairs shall, with respect to each non-De-
21 partment health care provider for which disciplinary
22 action has been taken by the Secretary, provide to
23 the State medical licensing board of each State in
24 which the provider is licensed or practices, and to
25 the National Practitioner Databank or any successor

1 databank, information regarding such disciplinary
2 action.

3 (2) REPORT TO CONGRESS.—Not later than one
4 year after the date of the enactment of this Act, and
5 not less frequently than annually thereafter, the Sec-
6 retary of Veterans Affairs shall submit to the Com-
7 mittee on Veterans’ Affairs of the Senate and the
8 Committee on Veterans’ Affairs of the House of
9 Representatives a report on all non-Department
10 health care providers with respect to which discipli-
11 nary action was taken by the Secretary during the
12 year preceding the submittal of the report.

13 (3) NON-DEPARTMENT HEALTH CARE PRO-
14 VIDER DEFINED.—In this subsection, the term “non-
15 Department health care provider” means a health
16 care provider that is not a health care provider of
17 the Department of Veterans Affairs.

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