

111TH CONGRESS
1ST SESSION

H. R. 568

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 HOUSE OF REPRESENTATIVES

JANUARY 15, 2009

Mr. COSTELLO (for himself, Mr. SHIMKUS, Mr. MITCHELL, and Mr. WHITFIELD) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Oversight and Government Reform, 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 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 Veterans Health Administration in the
14 position of physician and to practice as a physician in
15 medical facilities of the Veterans Health Administration.
16 The standards shall incorporate the requirements of this
17 section.

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

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

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

1 ligence (other than a lawsuit, action, or claim
2 closed without any judgment against or pay-
3 ment by or on behalf of the individual).

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

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

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

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

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

23 “(C) Each medical malpractice judgment
24 against the individual by the courts or adminis-
25 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 “(G) Any written notification by the State
15 to the individual of potential termination of a li-
16 cense for cause or otherwise.

17 “(c) DISCLOSURE OF CERTAIN INFORMATION FOL-
18 LOWING APPOINTMENT.—(1) Each individual appointed
19 in the Veterans Health Administration in the position of
20 physician after the date of the enactment of the Veterans
21 Health Care Quality Improvement Act shall, as a condi-
22 tion of service under the appointment, disclose to the Sec-
23 retary, not later than 30 days after the occurrence of such
24 event, the following:

1 “(A) A judgment against the individual for
2 medical malpractice or negligence.

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

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

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

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

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

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

1 “(ii) A payment made by or on behalf of
2 the individual to settle any lawsuit, action, or
3 claim disclosed pursuant to subparagraph (A)
4 or under this subparagraph.

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

8 “(3) Each individual appointed in the Veterans
9 Health Administration in the position of physician shall,
10 as part of the biennial review of the performance of the
11 physician under the appointment, submit the request and
12 authorization described in subsection (b)(2). The require-
13 ment of this paragraph is in addition to the requirements
14 of paragraph (1) or (2), as applicable.

15 “(d) INVESTIGATION OF DISCLOSED MATTERS.—(1)
16 The Director of the Veterans Integrated Services Network
17 (VISN) in which an individual is seeking appointment in
18 the Veterans Health Administration in the position of phy-
19 sician shall perform a comprehensive investigation (in
20 such manner as the standards required by this section
21 shall specify) of each matter disclosed under subsection
22 (b) with respect to the individual.

23 “(2) The Director of the Veterans Integrated Serv-
24 ices Network in which an individual is appointed in the
25 Veterans Health Administration in the position of physi-

1 cian shall perform a comprehensive investigation (in a
2 manner so specified) of each matter disclosed under sub-
3 section (c) with respect to the individual.

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

6 “(e) APPROVAL OF APPOINTMENTS BY DIRECTORS
7 OF VISNS.—(1) An individual may not be appointed in
8 the Veterans Health Administration in the position of phy-
9 sician without the approval of the Director of the Veterans
10 Integrated Services Network in which the individual will
11 first serve under the appointment.

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

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

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

22 “(f) ENROLLMENT OF PHYSICIANS WITH PRACTICE
23 PRIVILEGES IN PROACTIVE DISCLOSURE SERVICE.—Each
24 medical facility of the Department at which physicians are
25 extended the privileges of practice shall enroll each physi-

1 cian extended such privileges in the Proactive Disclosure
2 Service of the National Practitioners Data Bank.

3 “(g) ENCOURAGING HIRING OF PHYSICIANS WITH
4 BOARD CERTIFICATION.—(1) The Secretary shall, for
5 each performance contract with a Director of a Veterans
6 Integrated Services Network (VISN), include in such con-
7 tract a provision that encourages the director to hire phy-
8 sicians who are board eligible or board certified in the spe-
9 cialty in which the physicians will practice.

10 “(2) The Secretary may determine the nature and
11 manner of the provision described in paragraph (1).”.

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

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

16 (b) EFFECTIVE DATE AND APPLICABILITY.—

17 (1) EFFECTIVE DATE.—Except as provided in
18 paragraphs (2) and (3), the amendments made by
19 subsection (a) shall take effect on the date of the en-
20 actment of this Act.

21 (2) APPLICABILITY OF CERTAIN REQUIRE-
22 MENTS TO PHYSICIANS PRACTICING ON EFFECTIVE
23 DATE.—In the case of an individual appointed to the
24 Veterans Health Administration in the position of
25 physician as of the date of the enactment of this

1 Act, the requirements of subsection (f) of section
 2 7402A, United States Code, as added by subsection
 3 (a) of this section, shall take effect on the date that
 4 is one year after the date of the enactment of this
 5 Act.

6 (3) APPLICABILITY OF REQUIREMENTS RE-
 7 LATED TO HIRING OF PHYSICIANS WITH BOARD CER-
 8 TIFICATION.—The requirements of subsection (g) of
 9 such section 7402A shall apply with respect to the
 10 first cycle of performance contracts for directors of
 11 Veterans Integrated Services Networks beginning
 12 after the date of the enactment of this Act and each
 13 subsequent cycle.

14 **SEC. 3. ENHANCEMENT OF QUALITY ASSURANCE BY THE**
 15 **VETERANS HEALTH ADMINISTRATION.**

16 (a) ENHANCEMENT OF QUALITY ASSURANCE
 17 THROUGH QUALITY ASSURANCE OFFICERS.—

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

21 **“§ 7311A. Quality assurance officers**

22 **“(a) NATIONAL QUALITY ASSURANCE OFFICER.—(1)**
 23 **The Under Secretary for Health shall designate an official**
 24 **of the Veterans Health Administration to act as the prin-**
 25 **cipal quality assurance officer for the quality-assurance**

1 program required by section 7311 of this title. The official
2 so designated may be known as the ‘National Quality As-
3 surance Officer of the Veterans Health Administration’ (in
4 this section referred to as the ‘National Quality Assurance
5 Officer’).

6 “(2) The National Quality Assurance Officer shall re-
7 port directly to the Under Secretary for Health in the dis-
8 charge of responsibilities and duties of the Officer under
9 this section.

10 “(3) The National Quality Assurance Officer shall be
11 the official within the Veterans Health Administration
12 who is principally responsible for the quality-assurance
13 program referred to in paragraph (1). In carrying out that
14 responsibility, the Officer shall be responsible for—

15 “(A) establishing and enforcing the require-
16 ments of that program; and

17 “(B) carrying out such other responsibilities
18 and duties relating to quality assurance in the Vet-
19 erans Health Administration as the Under Secretary
20 for Health shall specify.

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

23 “(A) A confidential system for the submittal of
24 reports by Veterans Health Administration per-

1 sonnel regarding quality assurance at Department
2 facilities.

3 “(B) Mechanisms for the peer review of the ac-
4 tions of individuals appointed in the Veterans Health
5 Administration in the position of physician.

6 “(C) Mechanisms for the accountability of the
7 facility director and chief medical officer of each
8 Veterans Health Administration medical facility for
9 the actions of physicians in such facility.

10 “(b) QUALITY ASSURANCE OFFICERS FOR VISNs.—

11 (1) The Director of each Veterans Integrated Services
12 Network (VISN) shall appoint an official of the Network
13 to act as the quality assurance officer of the Network.

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

17 “(3) The quality assurance officer for a Veterans In-
18 tegrated Services Network shall report to the Director of
19 the Veterans Integrated Services Network, and to the Na-
20 tional Quality Assurance Officer, regarding the discharge
21 of the responsibilities and duties of the officer under this
22 section.

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

1 “(A) direct the quality assurance office in the
2 Network; and

3 “(B) coordinate, monitor, and oversee the qual-
4 ity assurance programs and activities of the Vet-
5 erans Health Administration medical facilities in the
6 Network in order to ensure the thorough and uni-
7 form discharge of quality assurance requirements
8 under such programs and activities throughout such
9 facilities.

10 “(c) QUALITY ASSURANCE OFFICERS FOR MEDICAL
11 FACILITIES.—(1) The director of each Veterans Health
12 Administration medical facility shall appoint a quality as-
13 surance officer for that facility.

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

17 “(3) The official appointed as a quality assurance of-
18 ficer for a facility under this subsection shall be a prac-
19 ticing physician at the facility. If the official appointed as
20 quality assurance officer for a facility has other clinical
21 or administrative duties, the director of the facility shall
22 ensure that those duties are sufficiently limited in scope
23 so as to ensure that those duties do not prevent the officer
24 from effectively discharging the responsibilities and duties
25 of quality assurance officer at the facility.

1 “(4) The quality assurance officer for a facility shall
2 report directly to the director of the facility, and to the
3 quality assurance officer of the Veterans Integrated Serv-
4 ices Network in which the facility is located, regarding the
5 discharge of the responsibilities and duties of the quality
6 assurance officer under this section.

7 “(5) The quality assurance officer for a facility shall
8 be responsible for designing, disseminating, and imple-
9 menting quality assurance programs and activities for the
10 facility that meet the requirements established by the Na-
11 tional Quality Assurance Officer under subsection (a).”.

12 (2) CLERICAL AMENDMENT.—The table of sec-
13 tions at the beginning of chapter 73 of such title is
14 amended by inserting after the item relating to sec-
15 tion 7311 the following new item:

“7311A. Quality assurance officers.”.

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

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

1 “(4) As part of the quality-assurance program, the
2 Under Secretary for Health shall establish mechanisms
3 through which employees of Veterans Health Administra-
4 tion facilities may submit reports, on a confidential basis,
5 on matters relating to quality of care in Veterans Health
6 Administration facilities to the quality assurance officers
7 of such facilities under section 7311A(c) of this title and
8 to the quality assurance officers of the Veterans Inte-
9 grated Services Networks (VISNs) in which such facilities
10 are located under section 7311A(b) of this title. The mech-
11 anisms shall provide for the prompt and thorough review
12 of any reports so submitted by the receiving officials.”.

13 (d) REVIEW OF CURRENT HEALTH CARE QUALITY
14 SAFEGUARDS.—

15 (1) IN GENERAL.—The Secretary of Veterans
16 Affairs shall conduct a comprehensive review of all
17 current policies and protocols of the Department of
18 Veterans Affairs for maintaining health care quality
19 and patient safety at Department of Veterans Af-
20 fairs medical facilities. The review shall include a re-
21 view and assessment of the National Surgical Qual-
22 ity Improvement Program (NSQIP), including an
23 assessment of—

24 (A) the efficacy of the quality indicators
25 under the program;

1 (B) the efficacy of the data collection
2 methods under the program;

3 (C) the efficacy of the frequency with
4 which regular data analyses are performed
5 under the program; and

6 (D) the extent to which the resources allo-
7 cated to the program are adequate to fulfill the
8 stated function of the program.

9 (2) REPORT.—Not later than 60 days after the
10 date of the enactment of this Act, the Secretary
11 shall submit to Congress a report on the review con-
12 ducted under paragraph (1), including the findings
13 of the Secretary as a result of the review and such
14 recommendations as the Secretary considers appro-
15 priate in light of the review.

16 **SEC. 4. INCENTIVES TO ENCOURAGE HIGH-QUALITY PHYSI-**
17 **CIA NS TO SERVE IN THE VETERANS HEALTH**
18 **ADMINISTRATION.**

19 (a) INCENTIVES REQUIRED.—

20 (1) IN GENERAL.—Subchapter III of chapter
21 74 of title 38, United States Code, is amended by
22 inserting after section 7431 the following new sec-
23 tion:

1 **“§ 7431A. Physicians: additional incentives for service**
2 **in hard-to-fill positions**

3 “(a) LOAN REPAYMENT FOR PHYSICIANS WHO
4 SERVE IN HARD-TO-FILL POSITIONS.—(1) In order to re-
5 cruit and retain physicians in the Veterans Health Admin-
6 istration in hard-to-fill positions (as designated by the Sec-
7 retary for purposes of this subsection), the Secretary shall
8 repay, for each individual who agrees to serve as a physi-
9 cian for a period of not less than three years in an Admin-
10 istration facility in such a position, any loan of such indi-
11 vidual as follows:

12 “(A) Any loan of the individual described in
13 paragraphs (1) through (4) of section 16302(a) of
14 title 10.

15 “(B) Any other loan of the individual des-
16 igned by the Secretary for purposes of this sub-
17 section the proceeds of which were used by the indi-
18 vidual to finance education leading to the medical
19 degree of the individual.

20 “(2) Each individual seeking repayment of loans
21 under paragraph (1) shall enter into an agreement with
22 the Secretary regarding the repayment of loans. Under the
23 agreement, the individual shall agree—

24 “(A) to perform satisfactory service in a physi-
25 cian position specified in the agreement in an Ad-
26 ministration facility specified in the agreement for

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

3 “(B) to possess and retain for the period of the
4 agreement such professional qualifications as are
5 necessary for the service specified under subpara-
6 graph (A).

7 “(3) Repayment of loans under this subsection shall
8 be made on the basis of complete years of service under
9 the agreement under this subsection. The amount to be
10 repaid under an agreement under this subsection for a
11 complete year of service specified in the agreement shall
12 be such amount, not to exceed \$30,000, for each complete
13 year of service as the agreement shall specify.

14 “(b) TUITION REIMBURSEMENT FOR PHYSICIAN
15 STUDENTS WHO AGREE TO SERVE IN HARD-TO-FILL
16 POSITIONS.—(1) In order to recruit and retain physicians
17 in the Veterans Health Administration in hard-to-fill posi-
18 tions (as designated by the Secretary for purposes of this
19 subsection), the Secretary shall reimburse individuals who
20 are enrolled in a course of education leading toward board
21 certification as a physician for the tuition charged for pur-
22 suit of such course of education if such individuals agree
23 to serve as a physician in an Administration facility in
24 such a position.

1 “(2) Each individual seeking tuition reimbursement
2 under paragraph (1) shall enter into an agreement with
3 the Secretary regarding such tuition reimbursement.

4 Under the agreement, the individuals shall agree—

5 “(A) to satisfactorily complete the course of
6 education of the individual described in paragraph
7 (1); and

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

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

12 “(I) to perform satisfactory service in a
13 physician position specified in the agreement in
14 an Administration facility specified in the
15 agreement for such period of years as the
16 agreement shall specify; and

17 “(ii) to possess and retain for the period of
18 the agreement such professional qualifications
19 as are necessary for the service specified under
20 clause (I).

21 “(3) The amount of reimbursement payable to an in-
22 dividual under paragraph (1) for a year may not exceed
23 \$30,000.

24 “(4) Any individual receiving tuition reimbursement
25 under paragraph (1) who does not satisfy the require-

1 ments of the agreement under paragraph (2) shall be sub-
2 ject to such repayment requirements as the Secretary shall
3 specify in the agreement.

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

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

11 (1) In order to recruit and retain physicians in the Vet-
12 erans Health Administration in hard-to-fill positions (as
13 designated by the Secretary for purposes of this sub-
14 section), an individual not otherwise eligible for health in-
15 surance under chapter 89 of title 5 who agrees to serve
16 as a physician in an Administration facility in such a posi-
17 tion for not less than five days per month (of which two
18 days must occur in each 14-day period) shall be eligible
19 for enrollment in the health benefit plans under chapter
20 89 of title 5 on a self only or self and family basis (as
21 applicable).

22 “(2) The Secretary shall administer this subsection
23 in consultation with the Director of the Office of Per-
24 sonnel Management.

1 “(d) ADDITIONAL PROGRAMS.—It is the sense of
2 Congress that the Secretary should undertake active and
3 on-going efforts to establish additional incentive programs
4 to encourage individuals to serve in the position of physi-
5 cian in the Veterans Health Administration, or otherwise
6 practice in the Administration, in hard-to-fill positions, in-
7 cluding, in particular, incentive programs to encourage
8 more experienced physicians to serve or practice in such
9 positions.

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

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

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

18 (b) AFFILIATION OF DEPARTMENT OF VETERANS
19 AFFAIRS MEDICAL FACILITIES WITH MEDICAL
20 SCHOOLS.—The Secretary of Veterans Affairs shall, to the
21 extent practicable, require each medical facility of the De-
22 partment of Veterans Affairs to seek to establish an affili-
23 ation with a medical school within reasonable proximity
24 of such medical facility.

1 **SEC. 5. REPORTS TO CONGRESS.**

2 (a) REPORT.—Not later than December 15, 2009,
3 and each year thereafter through 2012, the Secretary of
4 Veterans Affairs shall submit to the congressional vet-
5 erans affairs committees a report on the implementation
6 of this Act and the amendments made by this Act during
7 the preceding fiscal year. Each report shall include, for
8 the fiscal year covered by such report, the following:

9 (1) A comprehensive description of the imple-
10 mentation of this Act and the amendments made by
11 this Act.

12 (2) Such recommendations as the Secretary
13 considers appropriate for legislative or administra-
14 tive action to improve the authorities and require-
15 ments in this Act and the amendments made by this
16 Act or to otherwise improve the quality of health
17 care and the quality of the physicians in the Vet-
18 erans Health Administration.

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

22 (1) the Committees on Veterans’ Affairs and
23 Appropriations of the Senate; and

24 (2) the Committees on Veterans’ Affairs and
25 Appropriations of the House of Representatives.

