

115TH CONGRESS  
1ST SESSION

# S. 1279

To amend title 38, United States Code, to furnish health care from the Department of Veterans Affairs through the use of non-Department health care providers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 25, 2017

Mr. CRAPO introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to furnish health care from the Department of Veterans Affairs through the use of non-Department health care providers, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Veterans Health Administration Reform Act of 2017”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Establishment of Care in the Community Program.

- Sec. 3. Authorization of provider agreements under Care in the Community Program.
- Sec. 4. Expansion of reimbursement of veterans for emergency treatment and urgent care.
- Sec. 5. Memorandum of understanding between Department of Veterans Affairs and Centers for Medicare & Medicaid Services.
- Sec. 6. Education program on health care options from Department of Veterans Affairs.
- Sec. 7. Training program for administration of Non-Department of Veterans Affairs health care.
- Sec. 8. Analysis of electronic health record of Department of Veterans Affairs.
- Sec. 9. Reports assessing effectiveness of certain positions and offices of Department of Veterans Affairs.
- Sec. 10. Sense of Congress regarding reforms at the Veterans Health Administration.

1 **SEC. 2. ESTABLISHMENT OF CARE IN THE COMMUNITY**  
 2 **PROGRAM.**

3 (a) ESTABLISHMENT OF PROGRAM.—

4 (1) IN GENERAL.—Section 1703 of title 38,  
 5 United States Code, is amended to read as follows:

6 **“§ 1703. Care in the Community Program**

7 “(a) IN GENERAL.—(1) The Secretary may furnish  
 8 care and services described in subsection (c) to eligible vet-  
 9 erans described in subsection (b) from non-Department  
 10 health care providers through the use of Veterans Care  
 11 Agreements under section 1703A of this title, arrange-  
 12 ments under subsection (d), or under any other law ad-  
 13 ministered by the Secretary. The furnishing of care and  
 14 services under this section may be referred to as the ‘Care  
 15 in the Community Program’.

16 “(2) For purposes of this section, care or services  
 17 ‘furnished by’ the Secretary means that the Secretary au-

1 thorizes the care or services and pays for the care or serv-  
2 ices.

3 “(3) An eligible veteran may elect to decline to receive  
4 care or services furnished under this section and instead  
5 receive such care or services at a medical facility of the  
6 Department.

7 “(b) ELIGIBLE VETERANS.—(1) A veteran is an eligi-  
8 ble veteran for purposes of this section if the veteran is  
9 enrolled in the system of annual patient enrollment estab-  
10 lished and operated under section 1705 of this title and  
11 one or more of the following conditions apply:

12 “(A) The Secretary determines that it is in the  
13 clinical best interest of the veteran to access care or  
14 services outside of the Department.

15 “(B) The veteran would experience an undue  
16 burden if the veteran seeks care or services from the  
17 Department.

18 “(C) It is not economical for the Department to  
19 provide the veteran the care or services that the vet-  
20 eran needs.

21 “(2) A determination by the Secretary under para-  
22 graph (1)(A) shall include an assessment of factors relat-  
23 ing to the medical or clinical condition of the veteran and  
24 the timeliness of the Department in providing the care or  
25 services required by the veteran.

1       “(3) For purposes of paragraph (1)(B), an undue  
2 burden—

3               “(A) means—

4                       “(i) an excessive driving distance, geo-  
5 graphical challenges, or environmental factors  
6 impede the access of the veteran to care or  
7 services from the Department; or

8                       “(ii) the care or services sought by the vet-  
9 eran are not provided by a medical facility of  
10 the Department that is reasonably accessible to  
11 the veteran; and

12               “(B) may include other circumstances as deter-  
13 mined by the Secretary upon assessing—

14                       “(i) the nature or complexity of the care or  
15 services that the veteran requires;

16                       “(ii) the frequency with which the veteran  
17 requires such care or services; and

18                       “(iii) the need for an attendant to provide  
19 required aid or physical assistance to the vet-  
20 eran for the veteran to travel to a medical facil-  
21 ity of the Department.

22       “(c) CARE AND SERVICES DESCRIBED.—Care and  
23 services described in this subsection are the following:

24               “(1) Hospital care.

25               “(2) Medical services.

1 “(3) Diagnostic care.

2 “(4) With respect to veterans described in sec-  
3 tion 1712(a)(1)(F) of this title, outpatient dental  
4 services and treatment and related dental appli-  
5 ances.

6 “(5) Such other care or services as determined  
7 by the Secretary.

8 “(d) ARRANGEMENTS.—(1) The Secretary may pro-  
9 vide care and services under this section through arrange-  
10 ments described in paragraph (2).

11 “(2) Arrangements described in this paragraph are  
12 the following:

13 “(A) Health care coordination and sharing ac-  
14 tivities with the Department of Defense under sec-  
15 tion 8111 of this title.

16 “(B) Arrangements under section 8153 of this  
17 title.

18 “(C) Arrangements between the Secretary and  
19 the Director of the Indian Health Service.

20 “(D) Agreements under section 1745 of this  
21 title.

22 “(E) Agreements with Federally-qualified  
23 health centers (as defined in section 1905(l)(2)(B)  
24 of the Social Security Act (42 U.S.C.  
25 1396d(l)(2)(B))).

1 “(3) Nothing in this section may be construed to  
2 modify the way the Department, other Federal agencies,  
3 and States determine responsibility for payment under ar-  
4 rangements described in paragraph (2).

5 “(e) PROHIBITION ON COLLECTION OF PAYMENT.—  
6 A health care provider that provides care or services under  
7 this section shall agree not to recover or collect payment  
8 from—

9 “(1) an eligible veteran in connection with care  
10 or services furnished under this section; or

11 “(2) a health-plan contract or other third party  
12 on behalf of the eligible veteran in connection with  
13 such care or services.

14 “(f) ELECTRONIC WAITING LIST FOR CARE AT DE-  
15 PARTMENT FACILITIES.—(1) If an eligible veteran seeks  
16 care or services under this section, the Secretary shall pro-  
17 vide the veteran an opportunity to be included on an elec-  
18 tronic waiting list maintained by the Department for an  
19 appointment for care or services described in subsection  
20 (c) at a medical facility of the Department.

21 “(2) The electronic waiting list maintained under  
22 paragraph (1) shall allow access by each eligible veteran  
23 via [www.myhealth.va.gov](http://www.myhealth.va.gov) or any successor website (or  
24 other digital channel) for the following purposes:

1           “(A) To determine the place of such eligible  
2       veteran on the waiting list.

3           “(B) To determine the average length of time  
4       an individual spends on the waiting list,  
5       disaggregated by medical facility of the Department  
6       and type of care or service needed, for purposes of  
7       allowing such eligible veteran to make an informed  
8       election to receive care or services under this section  
9       or at a medical facility of the Department.

10       “(g) INFORMATION ON AVAILABILITY OF CARE.—  
11       The Secretary shall provide information to a veteran about  
12       the availability of care and services under this section in  
13       the following circumstances:

14           “(1) When the veteran enrolls in the system of  
15       annual patient enrollment established and operated  
16       under section 1705 of this title.

17           “(2) When the veteran attempts to schedule an  
18       appointment for the receipt of care or services de-  
19       scribed in subsection (c) from the Department but  
20       is unable to schedule an appointment within the  
21       wait-time goals of the Veterans Health Administra-  
22       tion for the furnishing of such care or services.

23           “(3) When the veteran becomes eligible for care  
24       or services under this section under subparagraph  
25       (A), (B), or (C) of subsection (b)(1).

1       “(h) FOLLOW-UP CARE.—In carrying out this sec-  
2 tion, the Secretary shall ensure that, at the election of an  
3 eligible veteran who receives care or services from a health  
4 care provider in an episode of care under this section, the  
5 veteran receives such care or services from such health  
6 care provider through the completion of the episode of care  
7 (but for a period not exceeding one year), including all  
8 specialty and ancillary services deemed necessary as part  
9 of the treatment recommended in the course of such care  
10 or services.

11       “(i) COST SHARING.—(1) The Secretary shall require  
12 an eligible veteran to pay a copayment for the receipt of  
13 care or services under this section only if such eligible vet-  
14 eran would be required to pay a copayment for the receipt  
15 of such care or services at a medical facility of the Depart-  
16 ment or from a health care provider of the Department.

17       “(2) The amount of a copayment charged under  
18 paragraph (1) may not exceed the amount of the copay-  
19 ment that would be payable by such eligible veteran for  
20 the receipt of such care or services at a medical facility  
21 of the Department or from a health care provider of the  
22 Department.

23       “(j) ADMINISTRATION OF PROGRAM.—(1) The Non-  
24 VA Care Coordination Program of the Department, work-  
25 ing jointly with the Chief Business Office of the Depart-

1 ment, shall administer the Care in the Community Pro-  
2 gram under this section.

3 “(2) Administration of the Care in the Community  
4 Program shall include the following:

5 “(A) Ensuring that an eligible veteran receives  
6 an appointment for care or services under this sec-  
7 tion within—

8 “(i) the wait-time goals of the Veterans  
9 Health Administration; or

10 “(ii) the period that a health care provider  
11 of the veteran at the Department determines  
12 the care or services are needed.

13 “(B) Ensuring that the Secretary, including  
14 any contractors of the Secretary, pay health care  
15 providers on time.

16 “(C) Ensuring that medical information of an  
17 eligible veteran who receives care or services under  
18 this section is sent to the health care provider of the  
19 veteran at the Department.

20 “(D) Ensuring that the Secretary has informa-  
21 tion regarding any other health insurance of an eli-  
22 gible veteran.

23 “(3) The Secretary shall ensure that the Non-VA  
24 Care Coordination Program of the Department and the  
25 Chief Business Office of the Department are working to-

1 gether effectively and efficiently throughout the process of  
2 furnishing care under this section.

3 “(4) The Secretary shall notify the Committee on  
4 Veterans’ Affairs of the Senate and the Committee on Vet-  
5 erans’ Affairs of the House of Representatives if any func-  
6 tions under this subsection require alteration or realign-  
7 ment.

8 “(k) PAYMENT OF CLAIMS.—(1) The Secretary shall  
9 ensure that all payments of claims under this section com-  
10 ply with chapter 39 of title 31 (commonly referred to as  
11 the ‘Prompt Payment Act’) and the requirements of this  
12 subsection. If there is a conflict between the requirements  
13 of the Prompt Payment Act and the requirements of this  
14 subsection, the Secretary shall comply with the require-  
15 ments of this subsection.

16 “(2)(A) Payment by the Secretary of claims under  
17 this section shall be issued, mailed, or otherwise trans-  
18 mitted with respect to not less than 95 percent of all such  
19 claims within 30 days after the date on which the claim  
20 is received, if—

21 “(i) the claim is a clean claim; and

22 “(ii) the claim is not one for which payment is  
23 made on a periodic interim payment basis.

24 “(B) In this paragraph, the term ‘clean claim’ means  
25 a claim that has no defect or impropriety (including any

1 lack of any required substantiating documentation) or par-  
2 ticular circumstance requiring special treatment that pre-  
3 vents timely payment from being made on the claim under  
4 this section.

5 “(3)(A) The Secretary is the primary payer for all  
6 care or services furnished under this section.

7 “(B) The Secretary may recover or collect reasonable  
8 charges for care or services furnished under this section  
9 from a third party pursuant to section 1729 of this title  
10 or any other provision of law that would permit the Sec-  
11 retary to recover or collect the cost of care furnished at  
12 a facility of the Department or under the laws adminis-  
13 tered by the Secretary.

14 “(I) ONLINE PORTAL.—The Secretary shall establish  
15 an online portal that health care providers participating  
16 in the Care in the Community Program may use as fol-  
17 lows:

18 “(1) To submit medical information with re-  
19 spect to eligible veterans furnished care or services  
20 under this section.

21 “(2) To file claims for payment for care or  
22 services furnished under this section.

23 “(3) To monitor the status of payment of  
24 claims under this section, including whether or not  
25 the claim was approved or rejected.

1           “(4) To determine whether the Secretary re-  
2       quires additional information before processing the  
3       claim.

4       “(m) ANNUAL REPORT ON CONTRACT CARE.—(1)  
5       Not later than April 1 each year, the Secretary shall sub-  
6       mit to the Committee on Veterans’ Affairs of the Senate  
7       and the Committee on Veterans’ Affairs of the House of  
8       Representatives a report on health care contracted for  
9       under the laws administered by the Secretary, including  
10      under the Care in the Community Program.

11      “(2) Each report submitted under paragraph (1)  
12      shall—

13           “(A) describe the use by the Secretary of Vet-  
14       erans Care Agreements under section 1703A of this  
15       title, arrangements under subsection (e), and other  
16       contracts or agreements for health care under this  
17       section or any other law administered by the Sec-  
18       retary;

19           “(B) state the number of such agreements, ar-  
20       rangements, or contracts entered into and the costs  
21       of such agreements, arrangements, or contracts,  
22       disaggregated by medical center of the Department;  
23       and

24           “(C) include an assessment by the Central Of-  
25       fice of the Veterans Health Administration of the ef-

1        forts of such office to coordinate such agreements,  
 2        arrangements, or contracts.

3        “(n) RULE OF CONSTRUCTION.—Nothing in this sec-  
 4        tion or section 1703A of this title shall be construed to  
 5        prevent the Secretary from entering into regional or na-  
 6        tional contracts to provide prescription medication, dialy-  
 7        sis treatment, prosthetics, and such other care or services  
 8        under this section as the Secretary considers appro-  
 9        priate.”.

10            (2) CLERICAL AMENDMENT.—The table of sec-  
 11        tions at the beginning of chapter 17 of such title is  
 12        amended by striking the item related to section 1703  
 13        and inserting the following new item:

“1703. Care in the Community Program.”.

14            (3) REPORT ON DEVELOPMENT AND IMPLE-  
 15        MENTATION OF ONLINE PORTAL.—

16            (A) IN GENERAL.—Not later than Decem-  
 17        ber 31, 2017, the Under Secretary for Health  
 18        of the Department of Veterans Affairs shall  
 19        submit to Congress a report on the development  
 20        and implementation by the Department of Vet-  
 21        erans Affairs of the online portal established  
 22        under subsection (m) of section 1703 of title  
 23        38, United States Code, as added by paragraph  
 24        (1), for the processing of claims by health care

1 providers under the Care in the Community  
2 Program under such section.

3 (B) ELEMENTS.—The report required by  
4 subparagraph (A) shall include the following:

5 (i) A detailed schedule for developing  
6 and implementing the online portal de-  
7 scribed in subparagraph (A).

8 (ii) An assessment of whether the on-  
9 line portal includes the following elements:

10 (I) Automatic adjudication of  
11 claims.

12 (II) Automated entry of author-  
13 izations for care or services.

14 (III) A mechanism by which  
15 health care providers can electroni-  
16 cally submit medical records, includ-  
17 ing health care providers that a vet-  
18 eran may have seen without author-  
19 ization from the Department.

20 (IV) A web-based portal for  
21 health care providers to check the sta-  
22 tus of their claims.

23 (iii) Estimated costs for developing  
24 and implementing each aspect of the online  
25 portal.

(iv) Performance goals, measures, and interim milestones that the Under Secretary for Health will use to evaluate progress, hold staff accountable for achieving desired results, and report to stakeholders on the impact of the online portal in modernizing the claims processing system of the Department.

(b) CONFORMING AMENDMENTS.—

(1) DENTAL CARE.—Section 1712(a)(3) of title 38, United States Code, is amended, in paragraph (3), by striking “under clause (1), (2), or (5) of section 1703(a) of this title” and inserting “under section 1703 of this title”.

(2) READJUSTMENT COUNSELING.—Section 1712A(e)(1) of such title is amended by striking “sections 1703(a)(2) and 1710(a)(1)(B) of this title” and inserting “sections 1703 and 1710(a)(1)(B) of this title”.

(3) CONFORMING REPEAL OF SUPERSEDED AUTHORITY.—

(A) IN GENERAL.—Section 101 of the Veterans Access, Choice, and Accountability Act of 2014 (Public Law 113–146; 38 U.S.C. 1701 note) is repealed.

1 (B) CONFORMING AMENDMENT.—Section  
 2 208 of such Act is amended—

3 (i) in paragraph (1), by striking “hos-  
 4 pital care and medical services under sec-  
 5 tion 101” and inserting “care and services  
 6 under section 1703 of title 38, United  
 7 States Code”; and

8 (ii) in paragraph (2), by striking  
 9 “hospital care and medical services” and  
 10 inserting “care and services”.

11 (c) REPEAL OF AUTHORITY TO CONTRACT FOR  
 12 SCARCE MEDICAL SPECIALISTS.—

13 (1) IN GENERAL.—Section 7409 of title 38,  
 14 United States Code, is repealed.

15 (2) CLERICAL AMENDMENT.—The table of sec-  
 16 tions at the beginning of chapter 74 of such title is  
 17 amended by striking the item relating to section  
 18 7409.

19 **SEC. 3. AUTHORIZATION OF PROVIDER AGREEMENTS**  
 20 **UNDER CARE IN THE COMMUNITY PROGRAM.**

21 (a) IN GENERAL.—Subchapter I of chapter 17 of title  
 22 38, United States Code, is amended by inserting after sec-  
 23 tion 1703 the following new section:

1   **“§ 1703A. Care in the Community Program: provider**  
 2                   **agreements**

3           “(a) AGREEMENTS TO FURNISH CARE.—The Sec-  
 4   retary may furnish care and services under the Care in  
 5   the Community Program under section 1703 of this title  
 6   by entering into agreements under this section with eligi-  
 7   ble providers that are certified under subsection (c).

8           “(b) ELIGIBLE PROVIDERS.—For purposes of this  
 9   section, an eligible provider is one of the following:

10           “(1) A provider of services that has enrolled  
 11   and entered into a provider agreement under section  
 12   1866(a) of the Social Security Act (42 U.S.C.  
 13   1395cc(a)).

14           “(2) A physician or supplier that has enrolled  
 15   and entered into a participation agreement under  
 16   section 1842(h) of such Act (42 U.S.C. 1395u(h)).

17           “(3) A provider of items and services receiving  
 18   payment under a State plan under title XIX of such  
 19   Act (42 U.S.C. 1396 et seq.) or a waiver of such a  
 20   plan.

21           “(4) A provider that is—

22                   “(A) an Aging and Disability Resource  
 23   Center, an area agency on aging, or a State  
 24   agency (as defined in section 102 of the Older  
 25   Americans Act of 1965 (42 U.S.C. 3002)); or

1           “(B) a center for independent living (as  
2           defined in section 702 of the Rehabilitation Act  
3           of 1973 (29 U.S.C. 796a)).

4           “(5) Such other health care providers as the  
5           Secretary considers appropriate for purposes of this  
6           section.

7           “(c) CERTIFICATION OF ELIGIBLE PROVIDERS.—The  
8           Secretary shall establish a process for the certification of  
9           eligible providers under this section.

10          “(d) RATES FOR CARE AND SERVICES.—(1) Except  
11          as otherwise provided in this subsection, an eligible pro-  
12          vider that enters into an agreement under this section to  
13          provide care or services under section 1703 of this title  
14          shall agree to accept as payment in full for such care or  
15          services an amount equal to the rate paid by the United  
16          States to a provider of services (as defined in section  
17          1861(u) of the Social Security Act (42 U.S.C. 1395x(u)))  
18          or a supplier (as defined in section 1861(d) of such Act  
19          (42 U.S.C. 1395x(d))) under the Medicare program under  
20          title XVIII of the Social Security Act (42 U.S.C. 1395  
21          et seq.) for the same care or services.

22          “(2)(A) A higher rate than the rate paid by the  
23          United States as described in paragraph (1) may be nego-  
24          tiated with respect to the furnishing of care or services  
25          to a veteran who resides in a highly rural area.

1 “(B) In this paragraph, the term ‘highly rural area’  
2 means an area located in a county that has fewer than  
3 seven individuals residing in that county per square mile.

4 “(3) With respect to furnishing care or services under  
5 this subsection in Alaska, the Alaska Fee Schedule of the  
6 Department of Veterans Affairs shall be followed, except  
7 for when another payment agreement, including a contract  
8 or provider agreement, is in place.

9 “(4) With respect to furnishing care or services under  
10 this subsection in a State with an All-Payer Model Agree-  
11 ment under section 1814(b)(3) of the Social Security Act  
12 (42 U.S.C. 1395f(b)(3)) that became effective on January  
13 1, 2014, the Medicare payment rates under subparagraph  
14 (A) shall be calculated based on the payment rates under  
15 such agreement.

16 “(5) With respect to furnishing care or services under  
17 this subsection for which there is not a rate paid under  
18 the Medicare program as described in paragraph (1), such  
19 as dental care, obstetrics and gynecology, and other serv-  
20 ices, the rate paid for such care or services shall be deter-  
21 mined by the Secretary.

22 “(6) In determining rates and making payments  
23 under this subsection, the Secretary may conduct pilot  
24 programs on alternative payment systems similar to those  
25 used under the Medicare program, including the Merit-

1 based Incentive Payment System under section 1848(q)  
2 of the Social Security Act (42 U.S.C. 1395w-4(q)) and  
3 alternative payment models (as defined in section  
4 1833(z)(3)(C) of the Social Security Act (42 U.S.C.  
5 1395l(z)(3)(C))).

6 “(7) If a higher rate than the rate specified in para-  
7 graph (1) is determined under this subsection, the Sec-  
8 retary shall notify the Centers for Medicare & Medicaid  
9 Services regarding such higher rate.

10 “(e) TREATMENT OF CERTAIN LAWS.—(1) An agree-  
11 ment under this section may be entered into without re-  
12 gard to any contracting law that would require the Sec-  
13 retary to use competitive procedures in selecting the party  
14 with which to enter into the agreement.

15 “(2)(A) Except as provided in subparagraph (B) and  
16 unless otherwise provided in this section or regulations  
17 prescribed pursuant to this section, an eligible provider  
18 that enters into an agreement under this section is not  
19 subject to, in the carrying out of the agreement, any con-  
20 tracting law that an eligible provider described in sub-  
21 section (b)(1), (b)(2), or (b)(3) is not subject to under the  
22 original Medicare fee-for-service program under parts A  
23 and B of title XVIII of the Social Security Act (42 U.S.C.  
24 1395 et seq.) or the Medicaid program under title XIX  
25 of such Act (42 U.S.C. 1396 et seq.).

1 “(B) The exclusion under subparagraph (A) does not  
 2 apply to laws regarding integrity, ethics, fraud, or that  
 3 subject a person to civil or criminal penalties.

4 “(3) Title VII of the Civil Rights Act of 1964 (42  
 5 U.S.C. 2000e et seq.) shall apply with respect to an eligi-  
 6 ble provider that enters into an agreement under this sec-  
 7 tion to the same extent as such title applies with respect  
 8 to the eligible provider in providing care or services  
 9 through an agreement or arrangement other than under  
 10 this section.”.

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

“1703A. Care in the Community Program: provider agreements.”.

15 **SEC. 4. EXPANSION OF REIMBURSEMENT OF VETERANS**  
 16 **FOR EMERGENCY TREATMENT AND URGENT**  
 17 **CARE.**

18 (a) IN GENERAL.—Section 1725 of title 38, United  
 19 States Code, is amended to read as follows:

20 **“§ 1725. Reimbursement for emergency treatment**  
 21 **and urgent care**

22 “(a) IN GENERAL.—(1) Subject to the provisions of  
 23 this section, the Secretary shall reimburse a veteran de-  
 24 scribed in subsection (b) for the reasonable value of emer-

1 gency treatment or urgent care furnished the veteran in  
2 a non-Department facility.

3 “(2) In any case in which reimbursement of a veteran  
4 is authorized under paragraph (1), the Secretary may, in  
5 lieu of reimbursing the veteran, make payment of the rea-  
6 sonable value of the furnished emergency treatment or ur-  
7 gent care directly—

8 “(A) to the hospital or other health care pro-  
9 vider that furnished the treatment or care; or

10 “(B) to the person or organization that paid for  
11 such treatment or care on behalf of the veteran.

12 “(b) ELIGIBILITY.—A veteran described in this sub-  
13 section is an individual who—

14 “(1) is enrolled in the patient enrollment sys-  
15 tem of the Department established and operated  
16 under section 1705 of this title; and

17 “(2) has received care under this chapter dur-  
18 ing the 24-month period preceding the furnishing of  
19 the emergency treatment or urgent care for which  
20 reimbursement is sought under this section.

21 “(c) EMERGENCY TRANSPORTATION.—Notwith-  
22 standing section 111 of this title, reimbursement of emer-  
23 gency treatment or urgent care under this section shall  
24 include reimbursement for the reasonable value of emer-  
25 gency transportation.

1       “(d) RESPONSIBILITY FOR PAYMENT.—The Sec-  
2 retary shall be primarily responsible for reimbursing or  
3 otherwise paying the reasonable value of emergency treat-  
4 ment or urgent care under this section.

5       “(e) LIMITATIONS ON PAYMENT.—(1) The Secretary,  
6 in accordance with regulations prescribed by the Secretary  
7 for purposes of this section, shall—

8           “(A) establish the maximum amount payable  
9       under subsection (a); and

10          “(B) delineate the circumstances under which  
11       such payments may be made, including such require-  
12       ments on requesting reimbursement as the Secretary  
13       may establish.

14       “(2)(A) Payment by the Secretary under this section  
15 on behalf of a veteran to a provider of emergency treat-  
16 ment or urgent care shall, unless rejected and refunded  
17 by the provider within 30 days of receipt—

18           “(i) constitute payment in full for the emer-  
19       gency treatment or urgent care provided; and

20           “(ii) extinguish any liability on the part of the  
21       veteran for that treatment or care.

22       “(B) Neither the absence of a contract or agreement  
23 between the Secretary and a provider of emergency treat-  
24 ment or urgent care nor any provision of a contract, agree-

1 ment, or assignment to the contrary shall operate to mod-  
2 ify, limit, or negate the requirements of subparagraph (A).

3 “(C) A provider of emergency treatment or urgent  
4 care may not seek to recover from any third party the  
5 cost of emergency treatment or urgent care for which the  
6 provider has received payment from the Secretary under  
7 this section.

8 “(f) RECOVERY.—The United States has the right to  
9 recover or collect reasonable charges for emergency treat-  
10 ment or urgent care furnished under this section in ac-  
11 cordance with the provisions of section 1729 of this title.

12 “(g) COST SHARING.—(1) The Secretary shall re-  
13 quire a veteran to pay a copayment for the receipt of emer-  
14 gency treatment or urgent care under this section only if  
15 such veteran would be required to pay a copayment for  
16 the receipt of such treatment or care at a medical facility  
17 of the Department or from a health care provider of the  
18 Department.

19 “(2) The amount of a copayment charged to a vet-  
20 eran under paragraph (1) may not exceed the amount of  
21 the copayment that would be payable by such veteran for  
22 the receipt of emergency treatment or urgent care at a  
23 medical facility of the Department or from a health care  
24 provider of the Department.

25 “(h) DEFINITIONS.—In this section:

1           “(1) The term ‘emergency treatment’ means  
2       medical care or services furnished, in the judgment  
3       of the Secretary—

4           “(A) when such care or services are ren-  
5       dered in a medical emergency of such nature  
6       that a prudent layperson reasonably expects  
7       that delay in seeking immediate medical atten-  
8       tion would be hazardous to life or health; and

9           “(B) until—

10           “(i) such time as the veteran can be  
11       transferred safely to a Department facility  
12       or community care provider authorized by  
13       the Secretary and such facility or provider  
14       is capable of accepting such transfer; or

15           “(ii) such time as a Department facil-  
16       ity or community care provider authorized  
17       by the Secretary accepts such transfer if—

18           “(I) at the time the veteran could  
19       have been transferred safely to such a  
20       facility or provider, no such facility or  
21       provider agreed to accept such trans-  
22       fer; and

23           “(II) the non-Department facility  
24       in which such medical care or services  
25       was furnished made and documented

1 reasonable attempts to transfer the  
2 veteran to a Department facility or  
3 community care provider.

4 “(2) The term ‘health-plan contract’ includes  
5 any of the following:

6 “(A) An insurance policy or contract, med-  
7 ical or hospital service agreement, membership  
8 or subscription contract, or similar arrangement  
9 under which health services for individuals are  
10 provided or the expenses of such services are  
11 paid.

12 “(B) An insurance program described in  
13 section 1811 of the Social Security Act (42  
14 U.S.C. 1395c) or established by section 1831 of  
15 such Act (42 U.S.C. 1395j).

16 “(C) A State plan for medical assistance  
17 approved under title XIX of such Act (42  
18 U.S.C. 1396 et seq.).

19 “(D) A workers’ compensation law or plan  
20 described in section 1729(a)(2)(A) of this title.

21 “(3) The term ‘third party’ means any of the  
22 following:

23 “(A) A Federal entity.

24 “(B) A State or political subdivision of a  
25 State.

1           “(C) An employer or an employer’s insur-  
2           ance carrier.

3           “(D) An automobile accident reparations  
4           insurance carrier.

5           “(E) A person or entity obligated to pro-  
6           vide, or to pay the expenses of, health services  
7           under a health-plan contract.

8           “(4) The term ‘urgent care’ shall have the  
9           meaning given that term by the Secretary in regula-  
10          tions prescribed by the Secretary for purposes of  
11          this section.”.

12          (b) CLERICAL AMENDMENT.—The table of sections  
13          at the beginning of chapter 17 is amended by striking the  
14          item relating to section 1725 and inserting the following  
15          new item:

“1725. Reimbursement for emergency treatment and urgent care.”.

16          (c) REPEAL OF SUPERSEDED AUTHORITY.—Section  
17          1728 is repealed.

18          (d) CONFORMING AMENDMENTS.—

19               (1) MEDICAL CARE FOR SURVIVORS AND DE-  
20               PENDENTS.—Section 1781(a)(4) is amended by  
21               striking “(as defined in section 1725(f) of this  
22               title)” and inserting “(as defined in section 1725(h)  
23               of this title)”.

24               (2) HEALTH CARE OF FAMILY MEMBERS OF  
25               VETERANS STATIONED AT CAMP LEJEUNE, NORTH

1 CAROLINA.—Section 1787(b)(3) is amended by strik-  
 2 ing “(as defined in section 1725(f) of this title)” and  
 3 inserting “(as defined in section 1725(h) of this  
 4 title)”.

5 (e) REGULATIONS.—Not later than 270 days after  
 6 the date of the enactment of this Act, the Secretary shall  
 7 prescribe regulations to carry out the amendments made  
 8 by this section.

9 (f) EFFECTIVE DATE.—The amendments made by  
 10 this section shall take effect one year after the date of  
 11 the enactment of this Act.

12 **SEC. 5. MEMORANDUM OF UNDERSTANDING BETWEEN DE-**  
 13 **PARTMENT OF VETERANS AFFAIRS AND CEN-**  
 14 **TERS FOR MEDICARE & MEDICAID SERVICES.**

15 (a) SENSE OF CONGRESS.—It is the sense of Con-  
 16 gress that the Secretary of Veterans Affairs should ensure  
 17 that a veteran who is enrolled in Medicare or Medicaid,  
 18 is eligible for care or services under the Care in the Com-  
 19 munity Program under section 1703 of title 38, United  
 20 States Code, as amended by section 2(a)(1), and seeks  
 21 care or services for a non-service-connected disability or  
 22 condition, knows that the veteran may use his or her bene-  
 23 fits under Medicare or Medicaid before the Secretary au-  
 24 thorizes the use of funds of the Department of Veterans  
 25 Affairs.

1 (b) PURPOSE.—The purpose of this section is to fa-  
2 cilitate coordination and communication between the De-  
3 partment of Veterans Affairs and the Centers for Medi-  
4 care & Medicaid Services for the benefit of veterans in the  
5 receipt of health care.

6 (c) MEMORANDUM OF UNDERSTANDING.—

7 (1) IN GENERAL.—The Secretary of Veterans  
8 Affairs and the Administrator of the Centers for  
9 Medicare & Medicaid Services shall enter into a  
10 memorandum of understanding regarding the coordi-  
11 nation of care between the Department of Veterans  
12 Affairs and the Centers for Medicare & Medicaid  
13 Services.

14 (2) REFERRAL OF PATIENTS.—

15 (A) IN GENERAL.—The memorandum of  
16 understanding under paragraph (1) shall permit  
17 health care providers of the Department of Vet-  
18 erans Affairs to refer veterans eligible for bene-  
19 fits under Medicare or Medicaid to non-Depart-  
20 ment health care providers in the community to  
21 use the Medicare or Medicaid benefits of such  
22 veterans.

23 (B) TREATMENT OF REFERRAL.—Referral  
24 of a veteran under subparagraph (A) does not  
25 authorize the Secretary of Veterans Affairs—

1 (i) to use funds of the Department of  
2 Veterans Affairs to conduct the referral or  
3 pay for care or services furnished pursuant  
4 to such a referral; or

5 (ii) to furnish care or services to the  
6 veteran under the Care in the Community  
7 Program under section 1703 of title 38,  
8 United States Code, as amended by section  
9 2(a)(1).

10 (3) SHARING OF INFORMATION.—As part of the  
11 memorandum of understanding under paragraph  
12 (1), the Secretary and the Administrator shall agree  
13 to share information in connection with the coordi-  
14 nation of care under such memorandum, including  
15 by establishing a mechanism to share patient infor-  
16 mation.

17 (4) TECHNICAL ASSISTANCE FOR CARE IN THE  
18 COMMUNITY PROGRAM.—

19 (A) IN GENERAL.—As part of the memo-  
20 randum of understanding under paragraph (1),  
21 the Administrator may provide technical assist-  
22 ance to the Secretary regarding the develop-  
23 ment of a program for non-Department health  
24 care providers to submit claims for reimburse-  
25 ment electronically under the Care in the Com-

1 munity Program under section 1703 of title 38,  
2 United States Code, as amended by section  
3 2(a)(1).

4 (B) INTEROPERABILITY AND SAFETY OF  
5 INFORMATION.—In providing technical assist-  
6 ance under subparagraph (A), the Adminis-  
7 trator shall provide advice regarding interoper-  
8 ability and methods for safeguarding the secu-  
9 rity of patient information.

10 (C) USE OF ASSISTANCE.—The Secretary  
11 shall use any technical assistance provided  
12 under subparagraph (A) in the development of  
13 a web-based self-service portal for non-Depart-  
14 ment health care providers to be used under  
15 subsection (l) of section 1703 of title 38,  
16 United States Code, as amended by section  
17 2(a)(1).

18 (d) EDUCATION PROGRAM.—

19 (1) IN GENERAL.—The Secretary of Veterans  
20 Affairs and the Administrator of the Centers for  
21 Medicare & Medicaid Services shall jointly develop  
22 and administer an education program to inform vet-  
23 erans how their benefits from the Department of  
24 Veterans Affairs are separate from and interact with  
25 their benefits under Medicare or Medicaid.

1           (2) ELEMENTS OF PROGRAM.—The education  
2       program under paragraph (1) shall—

3           (A) assist veterans in making informed de-  
4       cisions about when to use benefits from the De-  
5       partment and when to use benefits under Medi-  
6       care or Medicaid;

7           (B) provide information on which services  
8       require referrals from the Department and  
9       which services require no referral; and

10          (C) explain any financial costs that may be  
11       required to receive care, including copayments  
12       under Medicare or from the Department.

13          (3) USE OF MEMORANDUM OF UNDER-  
14       STANDING.—The education program under para-  
15       graph (1) may be implemented pursuant to the  
16       memorandum of understanding under subsection (c).

17          (e) RULE OF CONSTRUCTION.—This section may not  
18       be construed to authorize or require the Secretary of Vet-  
19       erans Affairs to reimburse the Administrator of the Cen-  
20       ters for Medicare & Medicaid Services for health care serv-  
21       ices or for the Administrator to reimburse the Secretary  
22       for such services.

23          (f) DEFINITIONS.—In this section:

1           (1) MEDICAID.—The term “Medicaid” means  
2           the Medicaid program under title XIX of the Social  
3           Security Act (42 U.S.C. 1396 et seq.).

4           (2) MEDICARE.—The term “Medicare” means  
5           the Medicare program under title XVIII of such Act  
6           (42 U.S.C. 1395 et seq.).

7           (3) NON-SERVICE-CONNECTED.—The term  
8           “non-service-connected” has the meaning given that  
9           term in section 101 of title 38, United States Code.

10 **SEC. 6. EDUCATION PROGRAM ON HEALTH CARE OPTIONS**  
11 **FROM DEPARTMENT OF VETERANS AFFAIRS.**

12           (a) IN GENERAL.—The Secretary of Veterans Affairs  
13 shall develop and administer an education program that  
14 teaches veterans about their health care options through  
15 the Department of Veterans Affairs.

16           (b) ELEMENTS.—The program under subsection (a)  
17 shall—

18                   (1) teach veterans about—

19                           (A) eligibility criteria for care from the De-  
20                           partment set forth under section 1710 of title  
21                           38, United States Code;

22                           (B) priority groups for enrollment in the  
23                           system of annual patient enrollment under sec-  
24                           tion 1705(a) of such title; and

1 (C) the copayments and other financial ob-  
2 ligations, if any, required of certain individuals  
3 for certain services;

4 (2) teach veterans about the interaction be-  
5 tween health insurance (including private insurance,  
6 Medicare, Medicaid, the TRICARE program, and  
7 other forms of insurance) and health care from the  
8 Department; and

9 (3) provide veterans information on what to do  
10 when they have a complaint about health care re-  
11 ceived from the Department (whether about the doc-  
12 tor, the Department, or any other type of com-  
13 plaint).

14 (c) INCLUSION OF INFORMATION FROM EDUCATION  
15 PROGRAM ON MEDICARE AND MEDICAID.—The education  
16 program under this section shall include information from  
17 the education program under section 6(d).

18 (d) ACCESSIBILITY.—In developing the education  
19 program under this section, the Secretary shall ensure  
20 that materials under such program are accessible to vet-  
21 erans who may not have access to the Internet.

22 (e) DEFINITIONS.—In this section:

23 (1) MEDICAID.—The term “Medicaid” means  
24 the Medicaid program under title XIX of the Social  
25 Security Act (42 U.S.C. 1396 et seq.).

1           (2) MEDICARE.—The term “Medicare” means  
 2           the Medicare program under title XVIII of such Act  
 3           (42 U.S.C. 1395 et seq.).

4           (3) TRICARE PROGRAM.—The term  
 5           “TRICARE program” has the meaning given that  
 6           term in section 1072 of title 10, United States Code.

7 **SEC. 7. TRAINING PROGRAM FOR ADMINISTRATION OF**  
 8                               **NON-DEPARTMENT OF VETERANS AFFAIRS**  
 9                               **HEALTH CARE.**

10          (a) IN GENERAL.—The Secretary of Veterans Affairs  
 11          shall develop and implement a training program to train  
 12          employees and contractors of the Department of Veterans  
 13          Affairs on how to administer non-Department health care  
 14          programs, including the following:

15               (1) Reimbursement for non-Department emer-  
 16               gency room and urgent care under section 1725 of  
 17               title 38, United States Code.

18               (2) The Care in the Community Program under  
 19               section 1703 of such title, as amended by section  
 20               2(a)(1).

21          (b) INCLUSION OF TRAINING ON COOPERATION  
 22          WITH CENTERS FOR MEDICARE & MEDICAID SERV-  
 23          ICES.—The training program under subsection (a) shall  
 24          include training on coordinating care between the Depart-  
 25          ment and Medicare and Medicaid, including pursuant to

1 the memorandum of understanding between the Secretary  
 2 of Veterans Affairs and the Administrator of the Centers  
 3 for Medicare & Medicaid Services under section 6(a).

4 (c) DEFINITIONS.—In this section:

5 (1) MEDICAID.—The term “Medicaid” means  
 6 the Medicaid program under title XIX of the Social  
 7 Security Act (42 U.S.C. 1396 et seq.).

8 (2) MEDICARE.—The term “Medicare” means  
 9 the Medicare program under title XVIII of such Act  
 10 (42 U.S.C. 1395 et seq.).

11 **SEC. 8. ANALYSIS OF ELECTRONIC HEALTH RECORD OF DE-**  
 12 **PARTMENT OF VETERANS AFFAIRS.**

13 (a) IN GENERAL.—The Chief Information Officer of  
 14 the Veterans Health Administration, in partnership with  
 15 the Chief Information Officer of the Department of Vet-  
 16 erans Affairs, shall conduct a comprehensive cost-benefit  
 17 analysis among selecting a commercial off-the-shelf elec-  
 18 tronic health record, selecting an open source electronic  
 19 health record, or continuing the in-house custom develop-  
 20 ment of the VistA electronic health record currently in use  
 21 by the Veterans Health Administration.

22 (b) ELEMENTS.—The analysis conducted under sub-  
 23 section (a) shall—

24 (1) take into account the complexities of the  
 25 computerized patient record system architecture and

1 infrastructure of the VistA electronic health record  
2 and known issues with performance, scalability, ex-  
3 tensibility, interoperability, and security of such  
4 health record; and

5 (2) address full life-cycle costs, including devel-  
6 opment time (based on recent delivery trends), avail-  
7 ability of development resources, maintenance and li-  
8 censing costs, and infrastructure costs.

9 (c) REPORT.—

10 (1) INITIAL REPORT.—Not later than Sep-  
11 tember 30, 2017, the Secretary of Veterans Affairs  
12 shall submit to the Committee on Veterans' Affairs  
13 of the Senate and the Committee on Veterans' Af-  
14 fairs of the House of Representatives a report on the  
15 progress of the analysis conducted under subsection  
16 (a).

17 (2) FINAL REPORT.—Not later than December  
18 31, 2017, the Secretary shall submit to the Com-  
19 mittee on Veterans' Affairs of the Senate and the  
20 Committee on Veterans' Affairs of the House of  
21 Representatives the results of the analysis conducted  
22 under subsection (a).

1 **SEC. 9. REPORTS ASSESSING EFFECTIVENESS OF CERTAIN**  
2 **POSITIONS AND OFFICES OF DEPARTMENT**  
3 **OF VETERANS AFFAIRS.**

4 (a) REPORT ON CIO OF VETERANS HEALTH ADMIN-  
5 ISTRATION.—

6 (1) IN GENERAL.—Not later than December 31,  
7 2017, the Secretary of Veterans Affairs shall submit  
8 to the Committee on Veterans' Affairs of the Senate  
9 and the Committee on Veterans' Affairs of the  
10 House of Representatives a report assessing whether  
11 the Chief Information Officer of the Veterans Health  
12 Administration serves as an effective advocate for  
13 the information technology needs of the Department  
14 of Veterans Affairs for health care delivery.

15 (2) ELEMENTS.—The report required by para-  
16 graph (1) shall include a description of the require-  
17 ments for an effective health care management sys-  
18 tem that would advance the mission and goals of the  
19 Veterans Health Administration.

20 (3) USE OF INFORMATION.—In preparing the  
21 report under paragraph (1), the Secretary shall in-  
22 clude information from the Under Secretary for  
23 Health of the Department of Veterans Affairs and  
24 the Chief Information Officer of the Department of  
25 Veterans Affairs.

1 (b) REPORT ON OFFICE OF INFORMATION AND  
2 TECHNOLOGY.—

3 (1) IN GENERAL.—Not later than December 31,  
4 2017, the Secretary of Veterans Affairs shall submit  
5 to the Committee on Veterans' Affairs of the Senate  
6 and the Committee on Veterans' Affairs of the  
7 House of Representatives a report assessing whether  
8 the Office of Information and Technology of the De-  
9 partment of Veterans Affairs acts as a service pro-  
10 vider and delivers information technology capabilities  
11 and services that improve health care delivery to vet-  
12 erans.

13 (2) USE OF SURVEY DATA.—In preparing the  
14 report under paragraph (1), the Secretary shall in-  
15 clude the results of clinician and veteran surveys as-  
16 sessing the quality of and satisfaction with capabili-  
17 ties and services of the Department.

18 **SEC. 10. SENSE OF CONGRESS REGARDING REFORMS AT**  
19 **THE VETERANS HEALTH ADMINISTRATION.**

20 (a) FINDINGS.—Congress finds that section 201 of  
21 the Veterans Access, Choice, and Accountability Act of  
22 2014 (Public Law 113–146; 38 U.S.C. 1701 note) re-  
23 quired an independent assessment of the hospital care,  
24 medical services, and other health care furnished in med-  
25 ical facilities of the Department of Veterans Affairs. That

1 assessment provided valuable insight into needed reforms  
2 at the Veterans Health Administration, particularly with  
3 respect to governance, operations, data and tools, and  
4 leadership.

5 (b) SENSE OF CONGRESS.—

6 (1) IN GENERAL.—It is the sense of Congress  
7 that the Secretary of Veterans Affairs should take  
8 every effort to address as many of the reforms de-  
9 scribed in subsection (a) as practicable.

10 (2) ELEMENTS.—In making reforms described  
11 in subsection (a), it is the sense of Congress that the  
12 Secretary should do the following:

13 (A) Improve the overall management of the  
14 Veterans Health Administration as follows:

15 (i) By ensuring that the Administra-  
16 tion provides the decision making rights,  
17 authorities, and responsibilities to the low-  
18 est appropriate level. Such decision making  
19 rights, authorities, and responsibilities  
20 should be articulated by level, organization,  
21 and role, and should be standardized to the  
22 extent possible while allowing local flexi-  
23 bility based on local needs.

24 (ii) By clarifying the roles and respon-  
25 sibilities of the Central Office of the Ad-

1           ministration, the Veterans Integrated Serv-  
2           ice Networks, the medical centers of the  
3           Department, the community-based out-  
4           patient clinics of the Department, and  
5           other organizational entities, while  
6           prioritizing providing support to the field.

7           (iii) By reassessing all of the directed  
8           metrics and policies of the Central Office  
9           of the Administration to ensure those  
10          metrics and policies add sufficient value to  
11          patient outcomes. The Secretary should  
12          eliminate the metrics and policies that do  
13          not add sufficient value to patient out-  
14          comes.

15          (iv) By reviewing the implementation  
16          of the Patient Aligned Care Team staffing  
17          model of the Department, including by de-  
18          termining areas for improvement, to exam-  
19          ine—

20               (I) causes of gaps in facility  
21               benchmarks between actual, max-  
22               imum, modeled, and external bench-  
23               marks; and

1 (II) impacts on access to quality  
2 of care and appropriateness of per-  
3 formance standards and guidelines.

4 (B) Improve collaboration between the Of-  
5 fice of Information and Technology of the De-  
6 partment and the Veterans Health Administra-  
7 tion.

8 (C) Improve resource management and  
9 business processes by—

10 (i) prioritizing the use of a patient-  
11 centered demand model that forecasts re-  
12 sources needed by geographic location to  
13 improve access and make informed  
14 resourcing decisions; and

15 (ii) improving coordination across pa-  
16 tient access, clinical administration, and  
17 patient accounting functions by forming an  
18 internal committee of key revenue cycle  
19 and administrative stakeholders, standard-  
20 izing the recovery processes for billing, im-  
21 proving third-party contracts management,  
22 and developing approaches to resolve fre-  
23 quently recurring denials.

○