

114TH CONGRESS
2D SESSION

S. _____

To improve the ability of the Secretary of Veterans Affairs to provide health care to veterans through non-Department health care providers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. TESTER (for himself, Mr. BLUMENTHAL, Mr. BENNET, Mr. UDALL, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve the ability of the Secretary of Veterans Affairs to provide health care to veterans through 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 “Improving Veterans Access to Care in the Community
6 Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVEMENT OF ACCESS OF VETERANS TO NON-
DEPARTMENT CARE

- Sec. 101. Improvement of access of veterans to health care through establishment of Veterans Choice Program.
- Sec. 102. Expansion of reimbursement of veterans for emergency treatment and urgent care.
- Sec. 103. Termination of certain provisions authorizing care to veterans through non-Department of Veterans Affairs providers.

TITLE II—AUTHORITY TO PAY FOR NON-DEPARTMENT CARE

- Sec. 201. Authorization of agreements between the Department of Veterans Affairs and non-Department health care providers.
- Sec. 202. Modification of authority to enter into agreements with State homes to provide nursing home care.
- Sec. 203. Requirement for advance appropriations for the Care in the Community account of the Department of Veterans Affairs.
- Sec. 204. Annual transfer of amounts within Department of Veterans Affairs to pay for health care from non-Department providers.
- Sec. 205. Elimination of requirement to act as secondary payer for care relating to non-service-connected disabilities under Choice Program.
- Sec. 206. Authorization of use of certain amounts appropriated to the Veterans Choice Fund for other non-Department of Veterans Affairs care.
- Sec. 207. Modification of process through which Department of Veterans Affairs records obligations for non-Department care.

TITLE III—OTHER HEALTH CARE MATTERS

- Sec. 301. Treatment of Department of Veterans Affairs as participating provider for recovery of costs of certain medical care.
- Sec. 302. Primary care providers for veterans enrolled in patient enrollment system of Department of Veterans Affairs.

1 **TITLE I—IMPROVEMENT OF AC-**
2 **CESS OF VETERANS TO NON-**
3 **DEPARTMENT CARE**

4 **SEC. 101. IMPROVEMENT OF ACCESS OF VETERANS TO**
5 **HEALTH CARE THROUGH ESTABLISHMENT**
6 **OF VETERANS CHOICE PROGRAM.**

7 (a) IN GENERAL.—Subchapter I of chapter 17 of title
8 38, United States Code, is amended by inserting after sec-
9 tion 1703 the following new section:

1 **“§ 1703A. Veterans Choice Program**

2 “(a) IN GENERAL.—(1) The Secretary shall enter
3 into contracts or agreements under sections 1703B, 8111,
4 and 8153 of this title with eligible providers to furnish
5 hospital care and medical services under this chapter to
6 eligible veterans. The provision of hospital care and med-
7 ical services under this section may be referred to as the
8 ‘Veterans Choice Program’.

9 “(2) Hospital care and medical services shall be fur-
10 nished under this section to an eligible veteran at the elec-
11 tion of the veteran.

12 “(3)(A) An eligible veteran who makes an election
13 under paragraph (2) to receive hospital care or medical
14 services under this section may select a provider of such
15 care or services from among the health care providers
16 specified in subsection (c)(2) that are accessible to the vet-
17 eran.

18 “(B) The Secretary may not direct an eligible veteran
19 to a provider that is not the eligible provider selected by
20 the veteran under subparagraph (A).

21 “(b) ELIGIBLE VETERANS.—A veteran is an eligible
22 veteran for purposes of this section if—

23 “(1) the veteran is enrolled in the patient en-
24 rollment system of the Department established and
25 operated under section 1705 of this title; and

1 “(2)(A) the veteran is unable to schedule an ap-
2 pointment for the receipt of hospital care or medical
3 services from a health care provider of the Depart-
4 ment within the lesser of—

5 “(i) the wait-time goals of the Veterans
6 Health Administration for such care or services,
7 as determined by the Secretary; or

8 “(ii) a period determined by a health care
9 provider of the Department to be clinically nec-
10 essary for the receipt of such care or services;

11 “(B) the veteran does not reside within 40
12 miles driving distance from a medical facility of the
13 Department, including a community-based out-
14 patient clinic, with a full-time primary care provider;

15 “(C) the veteran faces an excessive burden in
16 accessing hospital care or medical services from a
17 medical facility of the Department due to—

18 “(i) geographical challenges;

19 “(ii) environmental factors;

20 “(iii) a medical condition of the veteran
21 that affects the ability to travel; or

22 “(iv) such other factors as determined by
23 the Secretary;

24 “(D) the hospital care or medical services
25 sought by the veteran are not provided at a medical

1 facility of the Department that is accessible to the
2 veteran;

3 “(E) the veteran is enrolled in the pilot pro-
4 gram under section 403 of the Veterans’ Mental
5 Health and Other Care Improvements Act of 2008
6 (Public Law 110–387; 38 U.S.C. 1703 note) as of
7 the date of the enactment of the Improving Veterans
8 Access to Care in the Community Act;

9 “(F) the veteran is assigned a primary care
10 provider under section 1705A of this title that is not
11 a health care provider of the Department; and

12 “(G) there is a compelling reason, as deter-
13 mined by the Secretary, that the veteran needs to
14 receive hospital care or medical services from a med-
15 ical facility other than a medical facility of the De-
16 partment.

17 “(c) ELIGIBLE PROVIDERS.—(1) A health care pro-
18 vider is an eligible provider for purposes of this section
19 if the health care provider is a health care provider speci-
20 fied in paragraph (2) and meets standards established by
21 the Secretary for purposes of this section, including stand-
22 ards relating to education, certification, licensure, train-
23 ing, and employment history.

24 “(2) The health care providers specified in this para-
25 graph are the following:

1 “(A) Any health care provider that is partici-
2 pating in the Medicare program under title XVIII of
3 the Social Security Act (42 U.S.C. 1395 et seq.), in-
4 cluding any physician furnishing services under such
5 program.

6 “(B) Any health care provider of a Federally-
7 qualified health center (as defined in section
8 1905(l)(2)(B) of the Social Security Act (42 U.S.C.
9 1396d(l)(2)(B))).

10 “(C) Any health care provider of the Depart-
11 ment of Defense.

12 “(D) Any health care provider of the Indian
13 Health Service.

14 “(E) Any health care provider of an academic
15 affiliate of the Department of Veterans Affairs.

16 “(F) Any health care provider of a health sys-
17 tem established to serve Alaska Natives.

18 “(G) Any other health care provider that meets
19 criteria established by the Secretary for purposes of
20 this section.

21 “(3) To promote the provision of high-quality and
22 high-value health care under this section, the Secretary
23 may develop a tiered provider network of eligible providers
24 based on criteria established by the Secretary for purposes
25 of this section.

1 “(d) REIMBURSEMENT RATES.—(1) The Secretary
2 shall be primarily responsible for the payment of costs as-
3 sociated with hospital care and medical services furnished
4 under this section.

5 “(2) To the extent practicable, the rates paid by the
6 Secretary for hospital care and medical services furnished
7 under this section—

8 “(A) shall not be more than the rates paid by
9 the United States to a provider of services (as de-
10 fined in section 1861(u) of the Social Security Act
11 (42 U.S.C. 1395x(u))) or a supplier (as defined in
12 section 1861(d) of such Act (42 U.S.C. 1395x(d)))
13 under the Medicare program under title XVIII of
14 the Social Security Act (42 U.S.C. 1395 et seq.) for
15 the same care or services; and

16 “(B) shall incorporate the use of value-based
17 reimbursement models to promote the provision of
18 high-quality care.

19 “(e) PROMPT PAYMENT STANDARD.—(1) An eligible
20 provider that seeks reimbursement for hospital care or
21 medical services furnished under this section shall submit
22 to the Secretary a claim for reimbursement not later than
23 180 days after furnishing such care or services.

1 “(2) Notwithstanding any other provision of law, the
2 Secretary shall reimburse an eligible provider for hospital
3 care or medical services furnished under this section—

4 “(A) in the case of a clean claim submitted to
5 the Secretary on paper, not later than 45 calendar
6 days after receiving the claim; or

7 “(B) in the case of a clean claim submitted to
8 the Secretary electronically, not later than 30 cal-
9 endar days after receiving the claim.

10 “(3)(A) If the Secretary denies a claim submitted by
11 an eligible provider under paragraph (1), the Secretary
12 shall notify the eligible provider of the reason for denying
13 the claim and the additional information, if any, that may
14 be required to process the claim—

15 “(i) in the case of a clean claim submitted to
16 the Secretary on paper, not later than 45 calendar
17 days after receiving the claim; or

18 “(ii) in the case of a clean claim submitted to
19 the Secretary electronically, not later than 30 cal-
20 endar days after receiving the claim.

21 “(B) Upon receipt by the Secretary of additional in-
22 formation specified under subparagraph (A) relating to a
23 claim, the Secretary shall pay, deny, or otherwise adju-
24 dicate the claim, as appropriate, not later than 30 cal-
25 endar days after receiving such information.

1 “(4)(A) If the Secretary has not reimbursed an eligi-
2 ble provider or denied a claim for reimbursement by the
3 eligible provider under this subsection during the appro-
4 priate period specified in this subsection, such claim shall
5 be considered overdue.

6 “(B) If a valid claim for reimbursement by an eligible
7 provider is considered overdue under subparagraph (A),
8 in addition to the amount the Secretary owes the eligible
9 provider under the claim, the Secretary shall owe the eligi-
10 ble provider an interest penalty amount that shall—

11 “(i) be prorated daily;

12 “(ii) accrue from the date the payment was
13 overdue;

14 “(iii) be payable at the time the claim is paid;
15 and

16 “(iv) be computed at the rate of interest estab-
17 lished by the Secretary of the Treasury, and pub-
18 lished in the Federal Register, for interest payments
19 under subsections (a)(1) and (b) of section 7109 of
20 title 41 that is in effect at the time the Secretary
21 accrues the obligation to pay the interest penalty
22 amount.

23 “(5)(A) If the Secretary overpays an eligible provider
24 for hospital care or medical services furnished under this
25 section, the Secretary shall deduct the amount of any over-

1 payment from payments due to the eligible provider after
2 the date of such overpayment.

3 “(B)(i) Before deducting any amount from a pay-
4 ment to an eligible provider under subparagraph (A), the
5 Secretary shall ensure that the eligible provider is provided
6 an opportunity—

7 “(I) to dispute the existence or amount of any
8 overpayment owed to the Department; and

9 “(II) to request a compromise with respect to
10 any such overpayment.

11 “(ii) The Secretary may not make any deduction
12 from a payment to an eligible provider under subpara-
13 graph (A) unless the Secretary has made reasonable ef-
14 forts to notify the eligible provider of the rights of the
15 eligible provider under subclauses (I) and (II) of clause
16 (i).

17 “(iii) Upon receiving a dispute under subclause (I)
18 of clause (i) or a request under subclause (II) of such
19 clause, the Secretary shall make a determination with re-
20 spect to such dispute or request before making any deduc-
21 tion under subparagraph (A) unless the time required to
22 make such a determination would jeopardize the ability
23 of the Secretary to recover the full amount owed to the
24 Department.

25 “(6) Notwithstanding any other provision of law—

1 “(A) the authority of the Secretary to make de-
2 ductions under paragraph (5) or take any other ac-
3 tion for the purpose of collecting a debt owed to the
4 United States under this section shall not be subject
5 to any limitation with respect to the time for bring-
6 ing civil actions or for commencing administrative
7 proceedings; and

8 “(B) the Secretary may, except in the case of
9 a fraudulent claim, false claim, or misrepresented
10 claim, compromise any claim of an amount owed to
11 the United States under this section.

12 “(7) This subsection shall apply only to payments
13 made on a claims basis and not to capitation or other
14 forms of periodic payments to eligible providers.

15 “(f) COST SHARING.—(1) The Secretary shall require
16 an eligible veteran to pay a copayment for the receipt of
17 hospital care or medical services under this section only
18 if such eligible veteran would be required to pay a copay-
19 ment for the receipt of such care or services under this
20 chapter at a medical facility of the Department or from
21 a health care provider of the Department.

22 “(2) The amount of any copayment charged to an
23 eligible veteran under paragraph (1) for the receipt of hos-
24 pital care or medical services under this section may not
25 exceed the amount of the copayment that would be payable

1 by such eligible veteran for the receipt of such care or
2 services under this chapter at a medical facility of the De-
3 partment or from a health care provider of the Depart-
4 ment.

5 “(g) COORDINATION OF CARE AND SERVICES.—The
6 Secretary shall establish such procedures to promote co-
7 ordination of care and the sharing of health information
8 as the Secretary considers appropriate to carry out this
9 section.

10 “(h) REGULATIONS.—The Secretary shall prescribe
11 regulations to carry out this section.

12 “(i) EFFECTIVE DATE.—The Secretary may not fur-
13 nish hospital care or medical services under this section
14 before the date specified in section 101(p)(2) of the Vet-
15 erans Access, Choice, and Accountability Act of 2014
16 (Public Law 113–146; 38 U.S.C. 1701 note).

17 “(j) DEFINITIONS.—In this section:

18 “(1) The term ‘Alaska Native’ means a person
19 who is a member of any Native village, Village Cor-
20 poration, or Regional Corporation, as those terms
21 are defined in section 3 of the Alaska Native Claims
22 Settlement Act (43 U.S.C. 1602).

23 “(2) The term ‘clean claim’ means a claim sub-
24 mitted—

1 “(A) to the Secretary by an eligible pro-
2 vider for purposes of payment by the Secretary
3 of expenses for hospital care or medical services
4 furnished under this section;

5 “(B) that contains substantially all of the
6 required elements necessary for accurate adju-
7 dication, without requiring additional informa-
8 tion from the eligible provider; and

9 “(C) in such format as may be prescribed
10 by the Secretary for purposes of paying claims
11 for hospital care or medical services furnished
12 under this section.

13 “(3) The term ‘fraudulent claim’—

14 “(A) means a claim by a health care pro-
15 vider for reimbursement under this section that
16 includes an intentional and deliberate misrepre-
17 sentation of a material fact or facts that is in-
18 tended to induce the Secretary to pay an
19 amount that was not legally owed to the pro-
20 vider; and

21 “(B) does not include a claim in which a
22 misrepresentation is made in reliance on a good
23 faith interpretation by a health care provider of
24 the utilization, medical necessity, coding, or bill-
25 ing requirements of the Secretary.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 17 of such title is amended
3 by inserting after the item relating to section 1703 the
4 following new item:

“1703A. Veterans Choice Program.”.

5 **SEC. 102. EXPANSION OF REIMBURSEMENT OF VETERANS**
6 **FOR EMERGENCY TREATMENT AND URGENT**
7 **CARE.**

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

10 **“§ 1725. Reimbursement for emergency treatment**
11 **and urgent care**

12 “(a) IN GENERAL.—(1) Subject to the provisions of
13 this section, the Secretary shall reimburse a veteran de-
14 scribed in subsection (b) for the reasonable value of emer-
15 gency treatment or urgent care furnished the veteran in
16 a non-Department facility.

17 “(2) In any case in which reimbursement of a veteran
18 is authorized under paragraph (1), the Secretary may, in
19 lieu of reimbursing the veteran, make payment of the rea-
20 sonable value of the furnished emergency treatment or ur-
21 gent care directly—

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

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

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

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

6 “(2) has received care under this chapter dur-
7 ing the 24-month period preceding the furnishing of
8 the emergency treatment or urgent care for which
9 reimbursement is sought under this section.

10 “(c) EMERGENCY TRANSPORTATION.—Notwith-
11 standing section 111 of this title, reimbursement of emer-
12 gency treatment or urgent care under this section shall
13 include reimbursement for the reasonable value of emer-
14 gency transportation.

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

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

22 “(A) establish the maximum amount payable
23 under subsection (a); and

24 “(B) delineate the circumstances under which
25 such payments may be made, including such require-

1 ments on requesting reimbursement as the Secretary
2 may establish.

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

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

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

11 “(B) Neither the absence of a contract or agreement
12 between the Secretary and a provider of emergency treat-
13 ment or urgent care nor any provision of a contract, agree-
14 ment, or assignment to the contrary shall operate to mod-
15 ify, limit, or negate the requirements of subparagraph (A).

16 “(C) A provider of emergency treatment or urgent
17 care may not seek to recover from any third party the
18 cost of emergency treatment or urgent care for which the
19 provider has received payment from the Secretary under
20 this section.

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

1 “(g) COPAYMENTS.—(1) Except as provided in para-
2 graph (2), a veteran shall pay to the Department a copay-
3 ment (in an amount prescribed by the Secretary for pur-
4 poses of this section) for each episode of emergency treat-
5 ment or urgent care for which reimbursement is provided
6 to the veteran under this section.

7 “(2) The requirement under paragraph (1) to pay a
8 copayment does not apply to a veteran who—

9 “(A) would not be required to pay to the De-
10 partment a copayment for emergency treatment or
11 urgent care furnished at facilities of the Depart-
12 ment;

13 “(B) meets an exemption specified by the Sec-
14 retary in regulations prescribed by the Secretary for
15 purposes of this section; or

16 “(C) is admitted to a hospital for treatment or
17 observation following, and in connection with, the
18 emergency treatment or urgent care for which the
19 veteran is provided reimbursement under this sec-
20 tion.

21 “(3) The requirement that a veteran pay a copayment
22 under this section shall apply notwithstanding the author-
23 ity of the Secretary to offset such a requirement with
24 amounts recovered from a third party under section 1729
25 of this title.

1 “(h) DEFINITIONS.—In this section:

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

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

10 “(B) until—

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

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

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

24 “(II) the non-Department facility
25 in which such medical care or services

1 was furnished made and documented
2 reasonable attempts to transfer the
3 veteran to a Department facility or
4 community care provider.

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

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

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

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

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

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

24 “(A) A Federal entity.

1 “(B) A State or political subdivision of a
2 State.

3 “(C) An employer or an employer’s insur-
4 ance carrier.

5 “(D) An automobile accident reparations
6 insurance carrier.

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

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

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

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

18 (c) REPEAL OF SUPERSEDED AUTHORITY.—Section
19 1728 is repealed.

20 (d) CONFORMING AMENDMENTS.—

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

1 (2) HEALTH CARE OF FAMILY MEMBERS OF
2 VETERANS STATIONED AT CAMP LEJEUNE, NORTH
3 CAROLINA.—Section 1787(b)(3) is amended by strik-
4 ing “(as defined in section 1725(f) of this title)” and
5 inserting “(as defined in section 1725(h) of this
6 title)”.

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

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

14 **SEC. 103. TERMINATION OF CERTAIN PROVISIONS AUTHOR-**
15 **IZING CARE TO VETERANS THROUGH NON-**
16 **DEPARTMENT OF VETERANS AFFAIRS PRO-**
17 **VIDERS.**

18 (a) TERMINATION OF AUTHORITY TO CONTRACT FOR
19 CARE IN NON-DEPARTMENT FACILITIES.—

20 (1) IN GENERAL.—Section 1703 of title 38,
21 United States Code, is amended by adding at the
22 end the follow new subsection:

23 “(e) The authority of the Secretary under this section
24 terminates on December 31, 2017.”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) IN GENERAL.—

2 (i) DENTAL CARE.—Section 1712(a)
3 of such title is amended—

4 (I) in paragraph (3), by striking
5 “under clause (1), (2), or (5) of sec-
6 tion 1703(a) of this title” and insert-
7 ing “or entered into an agreement
8 under this title”; and

9 (II) in paragraph (4)(A), in the
10 first sentence—

11 (aa) by striking “and section
12 1703 of this title”; and

13 (bb) by striking “in section
14 1703 of this title” and inserting
15 “in this title”.

16 (ii) READJUSTMENT COUNSELING.—
17 Section 1712A(e)(1) of such title is
18 amended—

19 (I) by inserting “or agreements”
20 after “contracts”; and

21 (II) by striking “(under sections
22 1703(a)(2) and 1710(a)(1)(B) of this
23 title)”.

24 (iii) DEATH IN DEPARTMENT FACIL-
25 ITY.—Section 2303(a)(2)(B)(i) of such

1 title is amended by striking “section 1703”
2 and inserting “a contract or agreement en-
3 tered into under this title”.

4 (iv) MEDICARE PROVIDER AGREE-
5 MENTS.—Section 1866(a) of the Social Se-
6 curity Act (42 U.S.C. 1395cc(a)) is
7 amended by striking “under section 1703
8 of title 38” and inserting “under title 38,
9 United States Code,”.

10 (B) EFFECTIVE DATE.—The amendments
11 made by subparagraph (A) shall take effect on
12 December 17, 2017.

13 (b) REPEAL OF AUTHORITY TO CONTRACT FOR
14 SCARCE MEDICAL SPECIALISTS.—

15 (1) IN GENERAL.—Section 7409 of such title is
16 repealed.

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

1 **TITLE II—AUTHORITY TO PAY**
2 **FOR NON-DEPARTMENT CARE**

3 **SEC. 201. AUTHORIZATION OF AGREEMENTS BETWEEN THE**
4 **DEPARTMENT OF VETERANS AFFAIRS AND**
5 **NON-DEPARTMENT HEALTH CARE PRO-**
6 **VIDERS.**

7 (a) IN GENERAL.—Subchapter I of chapter 17 of title
8 38, United States Code, as amended by section 101(a),
9 is further amended by inserting after section 1703A the
10 following new section:

11 **“§ 1703B. Veterans Care Agreements**

12 “(a) AGREEMENTS TO FURNISH CARE.—(1) If the
13 Secretary is not feasibly able to furnish hospital care, med-
14 ical services, or extended care under this chapter at facili-
15 ties of the Department or under contracts or sharing
16 agreements entered into under authorities other than this
17 section, the Secretary may furnish such care and services
18 by entering into agreements under this section with eligi-
19 ble providers that are certified under subsection (c). An
20 agreement entered into under this section may be referred
21 to as a ‘Veterans Care Agreement’.

22 “(2) The Secretary is not feasibly able to furnish care
23 or services as described in paragraph (1) if the Secretary
24 determines that the medical condition of the veteran, the
25 travel involved, the nature of the care or services required,

1 or a combination of those factors make the use of facilities
2 of the Department, contracts, or sharing agreements im-
3 practicable or inadvisable.

4 “(3) Eligibility of a veteran under this section for the
5 care or services described in paragraph (1) shall be deter-
6 mined as if such care or services were furnished in a facil-
7 ity of the Department and provisions of this title applica-
8 ble to veterans receiving such care or services in a facility
9 of the Department shall apply to veterans receiving such
10 care or services under this section.

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

13 “(1) A provider of services that has enrolled
14 and entered into a provider agreement under section
15 1866(a) of the Social Security Act (42 U.S.C.
16 1395cc(a)).

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

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

24 “(4) A provider that is—

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

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

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

11 “(c) CERTIFICATION OF ELIGIBLE PROVIDERS.—(1)
12 The Secretary shall establish a process for the certification
13 of eligible providers under this section that shall, at a min-
14 imum, set forth the following:

15 “(A) Procedures for the submittal of applica-
16 tions for certification and deadlines for actions taken
17 by the Secretary with respect to such applications.

18 “(B) Standards and procedures for approval
19 and denial of certification, duration of certification,
20 revocation of certification, and recertification.

21 “(C) Procedures for assessing eligible providers
22 based on the risk of fraud, waste, and abuse of such
23 providers similar to the level of screening under sec-
24 tion 1866(j)(2)(B) of the Social Security Act (42
25 U.S.C. 1395cc(j)(2)(B)) and the standards set forth

1 under section 9.104 of title 48, Code of Federal
2 Regulations, or any successor regulation.

3 “(2) The Secretary shall deny or revoke certification
4 to an eligible provider under this subsection if the Sec-
5 retary determines that the eligible provider is currently—

6 “(A) excluded from participation in a Federal
7 health care program (as defined in section 1128B(f)
8 of the Social Security Act (42 U.S.C. 1320a–7b(f)))
9 under section 1128 or 1128A of the Social Security
10 Act (42 U.S.C. 1320a–7 and 1320a–7a); or

11 “(B) identified as an excluded source on the list
12 maintained in the System for Award Management,
13 or any successor system.

14 “(d) TERMS OF AGREEMENTS.—Each agreement en-
15 tered into with an eligible provider under this section shall
16 include provisions requiring the eligible provider to do the
17 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, the rates paid by
22 the United States for such care and services to pro-
23 viders of services and suppliers under the Medicare
24 program under title XVIII of the Social Security Act
25 (42 U.S.C. 1395 et seq.).

1 “(2) To accept payment under paragraph (1) as
2 payment in full for care and services furnished
3 under this section and to not seek any payment for
4 such care and services from the recipient of such
5 care and services.

6 “(3) To furnish under this section only the care
7 and services authorized by the Department under
8 this section unless the eligible provider receives prior
9 written consent from the Department to furnish care
10 or services outside the scope of such authorization.

11 “(4) To bill the Department for care and serv-
12 ices furnished under this section in accordance with
13 a methodology established by the Secretary for pur-
14 poses of this section.

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

20 “(6) To provide medical records for veterans
21 furnished care or services under this section to the
22 Department in a timeframe and format specified by
23 the Secretary for purposes of this section.

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

4 “(e) TERMINATION OF AGREEMENTS.—(1) An eligi-
5 ble provider may terminate an agreement with the Sec-
6 retary under this section at such time and upon such no-
7 tice to the Secretary as the Secretary may specify for pur-
8 poses of this section.

9 “(2) The Secretary may terminate an agreement with
10 an eligible provider under this section at such time and
11 upon such notice to the eligible provider as the Secretary
12 may specify for purposes of this section, if the Secretary—

13 “(A) determines that the eligible provider failed
14 to comply substantially with the provisions of the
15 agreement or with the provisions of this section and
16 the regulations prescribed thereunder;

17 “(B) determines that the eligible provider is—

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

1 “(ii) identified as an excluded source on
2 the list maintained in the System for Award
3 Management, or any successor system;

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

10 “(D) determines that it is reasonable to termi-
11 nate the agreement based on the health care needs
12 of a veteran or veterans.

13 “(f) PERIODIC REVIEW OF CERTAIN AGREE-
14 MENTS.—(1) Not less frequently than once every two
15 years, the Secretary shall review each Veterans Care
16 Agreement of material size entered into during the two-
17 year period preceding the review to determine whether it
18 is feasible and advisable to furnish the hospital care, med-
19 ical services, or extended care furnished under such agree-
20 ment at facilities of the Department or through contracts
21 or sharing agreements entered into under authorities other
22 than this section.

23 “(2)(A) Subject to subparagraph (B), a Veterans
24 Care Agreement is of material size as determined by the
25 Secretary for purposes of this section.

1 “(B) A Veterans Care Agreement entered into after
2 September 30, 2016, for the purchase of extended care
3 services is of material size if the purchase of such services
4 under the agreement exceeds \$1,000,000 annually. The
5 Secretary may adjust such amount to account for changes
6 in the cost of health care based upon recognized health
7 care market surveys and other available data and shall
8 publish any such adjustments in the Federal Register.

9 “(g) EXCLUSION OF CERTAIN FEDERAL CON-
10 TRACTING PROVISIONS.—(1) An agreement under this
11 section may be entered into without regard to any law that
12 would require the Secretary to use competitive procedures
13 in selecting the party with which to enter into the agree-
14 ment.

15 “(2)(A) Except as provided in subparagraph (B) and
16 unless otherwise provided in this section or in 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 law
20 to which providers of services and suppliers under the
21 Medicare program under title XVIII of the Social Security
22 Act (42 U.S.C. 1395 et seq.) are not subject.

23 “(B) An eligible provider that enters into an agree-
24 ment under this section is subject to—

1 “(i) all laws regarding integrity, ethics, fraud,
2 or that subject a person to civil or criminal pen-
3 alties; and

4 “(ii) all laws that protect against employment
5 discrimination or that otherwise ensure equal em-
6 ployment opportunities.

7 “(h) MONITORING OF QUALITY OF CARE.—The Sec-
8 retary shall establish a system or systems, consistent with
9 survey and certification procedures used by the Centers
10 for Medicare & Medicaid Services and State survey agen-
11 cies to the extent practicable—

12 “(1) to monitor the quality of care and services
13 furnished to veterans under this section; and

14 “(2) to assess the quality of care and services
15 furnished by an eligible provider for purposes of de-
16 termining whether to renew an agreement under this
17 section with the eligible provider.

18 “(i) DISPUTE RESOLUTION.—(1) The Secretary shall
19 establish administrative procedures for eligible providers
20 with which the Secretary has entered an agreement under
21 this section to present any dispute arising under or related
22 to the agreement.

23 “(2) Before using any dispute resolution mechanism
24 under chapter 71 of title 41 with respect to a dispute aris-
25 ing under an agreement under this section, an eligible pro-

1 vider must first exhaust the administrative procedures es-
2 tablished by the Secretary under paragraph (1).”.

3 (b) REGULATIONS.—The Secretary of Veterans Af-
4 fairs shall prescribe an interim final rule to carry out sec-
5 tion 1703B of such title, as added by subsection (a), not
6 later than one year after the date of the enactment of this
7 Act.

8 (c) CLERICAL AMENDMENT.—The table of sections
9 at the beginning of chapter 17 of such title, as amended
10 by section 101(b), is further amended by inserting after
11 the item related to section 1703A the following new item:
“1703B. Veterans Care Agreements.”.

12 **SEC. 202. MODIFICATION OF AUTHORITY TO ENTER INTO**
13 **AGREEMENTS WITH STATE HOMES TO PRO-**
14 **VIDE NURSING HOME CARE.**

15 (a) USE OF AGREEMENTS.—

16 (1) IN GENERAL.—Paragraph (1) of section
17 1745(a) of title 38, United States Code, is amended,
18 in the matter preceding subparagraph (A), by strik-
19 ing “a contract (or agreement under section
20 1720(e)(1) of this title)” and inserting “an agree-
21 ment”.

22 (2) PAYMENT.—Paragraph (2) of such section
23 is amended by striking “contract (or agreement)”
24 each place it appears and inserting “agreement”.

1 (b) EXCLUSION OF CERTAIN FEDERAL CON-
2 TRACTING PROVISIONS.—Such section is amended by add-
3 ing at the end the following new paragraph:

4 “(4)(A) An agreement under this section may be en-
5 tered into without regard to any law that would require
6 the Secretary to use competitive procedures in selecting
7 the party with which to enter into the agreement.

8 “(B)(i) Except as provided in clause (ii) and unless
9 otherwise provided in this section or in regulations pre-
10 scribed pursuant to this section, a State home that enters
11 into an agreement under this section is not subject to, in
12 the carrying out of the agreement, any law to which pro-
13 viders of services and suppliers under the Medicare pro-
14 gram under title XVIII of the Social Security Act (42
15 U.S.C. 1395 et seq.) are not subject.

16 “(ii) A State home that enters into an agreement
17 under this section is subject to—

18 “(I) all laws regarding integrity, ethics, fraud,
19 or that subject a person to civil or criminal pen-
20 alties; and

21 “(II) all laws that protect against employment
22 discrimination or that otherwise ensure equal em-
23 ployment opportunities.”.

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to agreements entered into
3 under section 1745 of such title on and after the
4 date on which the regulations prescribed by the Sec-
5 retary of Veterans Affairs to implement such amend-
6 ments take effect.

7 (2) PUBLICATION.—The Secretary shall publish
8 the date described in paragraph (1) in the Federal
9 Register not later than 30 days before such date.

10 **SEC. 203. REQUIREMENT FOR ADVANCE APPROPRIATIONS**
11 **FOR THE CARE IN THE COMMUNITY AC-**
12 **COUNT OF THE DEPARTMENT OF VETERANS**
13 **AFFAIRS.**

14 (a) IN GENERAL.—Section 117(c) of title 38, United
15 States Code, is amended by adding at the end the fol-
16 lowing new paragraph:

17 “(7) Veterans Health Administration, Care in
18 the Community.”.

19 (b) CONFORMING AMENDMENT.—Section
20 1105(a)(37) of title 31, United States Code, is amended
21 by adding at the end the following new subparagraph:

22 “(G) Veterans Health Administration,
23 Care in the Community.”.

1 (c) APPLICABILITY.—The amendments made by this
2 section shall apply to fiscal years beginning on and after
3 October 1, 2016.

4 **SEC. 204. ANNUAL TRANSFER OF AMOUNTS WITHIN DE-**
5 **PARTMENT OF VETERANS AFFAIRS TO PAY**
6 **FOR HEALTH CARE FROM NON-DEPARTMENT**
7 **PROVIDERS.**

8 Section 106 of the Veterans Access, Choice, and Ac-
9 countability Act of 2014 (Public Law 113–146; 38 U.S.C.
10 1701 note) is amended by adding at the end the following
11 new subsection:

12 “(c) ANNUAL TRANSFER OF AMOUNTS.—

13 “(1) IN GENERAL.—At the beginning of each
14 fiscal year, the Secretary of Veterans Affairs shall
15 transfer to the Chief Business Office of the Veterans
16 Health Administration an amount equal to the
17 amount estimated to be required to furnish hospital
18 care, medical services, and other health care through
19 non-Department of Veterans Affairs providers dur-
20 ing that fiscal year.

21 “(2) ADJUSTMENTS.—During a fiscal year, the
22 Secretary may make adjustments to the amount
23 transferred under paragraph (1) for that fiscal year
24 to accommodate any variances in demand for hos-

1 pital care, medical services, or other health care
2 through non-Department providers.”.

3 **SEC. 205. ELIMINATION OF REQUIREMENT TO ACT AS SEC-**
4 **ONDARY PAYER FOR CARE RELATING TO**
5 **NON-SERVICE-CONNECTED DISABILITIES**
6 **UNDER CHOICE PROGRAM.**

7 (a) IN GENERAL.—Section 101(e) of the Veterans
8 Access, Choice, and Accountability Act of 2014 (Public
9 Law 113–146; 38 U.S.C. 1701 note) is amended—

10 (1) by striking paragraphs (2) and (3);

11 (2) by redesignating paragraph (4) as para-
12 graph (3); and

13 (3) by inserting after paragraph (1) the fol-
14 lowing new paragraph (2):

15 “(2) RESPONSIBILITY FOR COSTS OF CERTAIN
16 CARE.—In any case in which an eligible veteran is
17 furnished hospital care or medical services under
18 this section for a non-service-connected disability de-
19 scribed in subsection (a)(2) of section 1729 of title
20 38, United States Code, the Secretary may recover
21 or collect reasonable charges for such care or serv-
22 ices from a health-care plan described in paragraph
23 (3) in accordance with such section.”.

1 (b) CONFORMING AMENDMENT.—Paragraph (1) of
2 such section is amended by striking “paragraph (4)” and
3 inserting “paragraph (3)”.

4 **SEC. 206. AUTHORIZATION OF USE OF CERTAIN AMOUNTS**
5 **APPROPRIATED TO THE VETERANS CHOICE**
6 **FUND FOR OTHER NON-DEPARTMENT OF**
7 **VETERANS AFFAIRS CARE.**

8 (a) IN GENERAL.—Section 802 of the Veterans Ac-
9 cess, Choice, and Accountability Act of 2014 (Public Law
10 113–146; 38 U.S.C. 1701 note) is amended—

11 (1) in subsection (c)—

12 (A) in paragraph (1)—

13 (i) by striking “Except as provided by
14 paragraph (3), any” and inserting “Any”;
15 and

16 (ii) by striking “by the Secretary of
17 Veterans Affairs” and all that follows
18 through the period at the end and insert-
19 ing “by the Secretary of Veterans Af-
20 fairs—

21 “(A) to carry out section 101, including,
22 subject to paragraph (2), any administrative re-
23 quirements of such section;

24 “(B) to furnish health care to individuals
25 under chapter 17 of title 38, United States

1 Code, at non-Department facilities, including
2 pursuant to authority other than the authority
3 under section 101; and

4 “(C) to furnish disability examinations
5 conducted by health care providers that are not
6 health care providers of the Department of Vet-
7 erans Affairs.”; and

8 (B) by striking paragraph (3) and insert-
9 ing the following new paragraphs:

10 “(3) TREATMENT OF AMOUNTS.—Amounts
11 made available to the Secretary under this sub-
12 section shall be used to supplement, not supplant,
13 amounts made available to the Secretary in the Med-
14 ical Services account of the Department of Veterans
15 Affairs.

16 “(4) NON-DEPARTMENT FACILITIES DE-
17 FINED.—In this subsection, the term ‘non-Depart-
18 ment facilities’ has the meaning given that term in
19 section 1701 of title 38, United States Code.”; and

20 (2) in subsection (d)(1), by striking “only for
21 the program” and all that follows through the period
22 at the end and inserting “only for the purposes spec-
23 ified in subsection (c)(1).”.

24 (b) EMERGENCY DESIGNATIONS.—

1 (1) IN GENERAL.—This section is designated as
2 an emergency requirement pursuant to section 4(g)
3 of the Statutory Pay-As-You-Go Act of 2010 (2
4 U.S.C. 933(g)).

5 (2) DESIGNATION IN SENATE.—In the Senate,
6 this section is designated as an emergency require-
7 ment pursuant to section 403(a) of S. Con. Res. 13
8 (111th Congress), the concurrent resolution on the
9 budget for fiscal year 2010.

10 **SEC. 207. MODIFICATION OF PROCESS THROUGH WHICH**
11 **DEPARTMENT OF VETERANS AFFAIRS**
12 **RECORDS OBLIGATIONS FOR NON-DEPART-**
13 **MENT CARE.**

14 (a) IN GENERAL.—Subchapter III of chapter 17 of
15 title 38, United States Code, is amended by adding at the
16 end the following new section:

17 **“§ 1730B. Recording obligations for care at non-De-**
18 **partment facilities**

19 “The Secretary may record as an obligation of the
20 United States Government amounts owed for hospital care
21 or medical services furnished under this chapter at non-
22 Department facilities on the date on which a claim by a
23 health care provider for payment is approved rather than
24 on the date that the hospital care or medical services are
25 authorized by the Secretary.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 17 of such title is amended
3 by inserting after the item relating to section 1730A the
4 following new item:

“1730B. Recording obligations for care at non-Department facilities.”.

5 **TITLE III—OTHER HEALTH CARE**
6 **MATTERS**

7 **SEC. 301. TREATMENT OF DEPARTMENT OF VETERANS AF-**
8 **FAIRS AS PARTICIPATING PROVIDER FOR RE-**
9 **COVERY OF COSTS OF CERTAIN MEDICAL**
10 **CARE.**

11 Section 1729(f) of title 38, United States Code, is
12 amended by striking “(f) No law” and inserting the fol-
13 lowing:

14 “(f)(1) In the case of a veteran who is entitled to
15 care (or payment of the expenses of care) under a health-
16 plan contract, for purposes of reimbursement for providing
17 care or services under this chapter to that veteran for a
18 non-service-connected disability described in subparagraph
19 (D) or (E) of subsection (a)(2), the Department shall be
20 treated as a participating provider under that health-plan
21 contract.

22 “(2) No law”.

1 **SEC. 302. PRIMARY CARE PROVIDERS FOR VETERANS EN-**
2 **ROLLED IN PATIENT ENROLLMENT SYSTEM**
3 **OF DEPARTMENT OF VETERANS AFFAIRS.**

4 (a) IN GENERAL.—Subchapter I of chapter 17 of title
5 38, United States Code, is amended by inserting after sec-
6 tion 1705 the following new section:

7 **“§ 1705A. Management of health care: primary care**
8 **provider**

9 “(a) IN GENERAL.—The Secretary shall, to the max-
10 imum extent possible, assign each veteran enrolled in the
11 system of annual patient enrollment established and oper-
12 ated under section 1705 of this title a full-time primary
13 care provider that meets the following criteria:

14 “(1) Except as provided in paragraph (2), lo-
15 cated not more than 40 miles driving distance from
16 the residence of the veteran.

17 “(2) If the veteran resides in a State without
18 a medical facility of the Department that provides
19 hospital care, emergency medical services, and sur-
20 gical care, located not more than 20 miles driving
21 distance from the residence of the veteran.

22 “(3) Located such that the veteran is not re-
23 quired to travel by air, boat, or ferry or overcome an
24 unusual or excessive burden to access the primary
25 care provider.

1 “(b) TYPES OF PROVIDERS.—In carrying out this
2 section, the Secretary may select from among primary
3 care providers that are health care providers of the De-
4 partment and primary care providers that are not health
5 care providers of the Department.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of chapter 17 of such title is amended
8 by inserting after the item relating to section 1705 the
9 following new item:

“1705A. Management of health care: primary care provider.”.