

The original documents are located in Box 69, folder “10/21/76 S2735 Veterans Omnibus Health Care Act of 1976 (1)” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Exact duplicates within this folder were not digitized.

APPROVED

OCT 21 1976

8/10/81/76

THE WHITE HOUSE
WASHINGTON
October 20, 1976

ACTION

Last Day: October 23

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON *[Signature]*

SUBJECT: H.R. 2735 - Veterans Omnibus Health Care Act of 1976

*Post Ed
10/22/76*

Attached for your consideration is H.R. 2735, sponsored by Representative Satterfield.

2/22/76

The enrolled bill provides for a substantial revision of the Veterans Administration medical care program by:

- expanding the scope of health program benefits available to eligible veterans;
- liberalizing the eligibility requirements for health benefits, and
- providing amendments designed to improve the administration of the VA medical care program.

H.R. 2735 also includes a major Administration-sponsored proposal--the extension of the VA physician and dentist pay bonus for an additional year, to September 30, 1977.

A detailed description of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Kilberg), Bill Seidman and I recommend approval of the enrolled bill and the proposed signing statement which has been cleared by Doug Smith.

Recommendation

That you sign H.R. 2735 at Tab B.

That you approve the signing statement at Tab C.

Approve *[Signature]* Disapprove _____



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 16 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 2735 - Veterans Omnibus
Health Care Act of 1976
Sponsor - Rep. Satterfield (D) Virginia

Last Day for Action

October 23, 1976 - Saturday

Purpose

Expands the Veterans Administration (VA) medical care program and liberalizes benefit eligibility; extends the VA physician and dentist pay bonus; includes amendments to improve administration of VA benefits.

Agency Recommendations

Office of Management and Budget	Approval (Signing statement attached)
Veterans Administration	Approval
General Services Administration	No objection (Informally)
Department of Defense	Defers to VA
Department of Health, Education, and Welfare	Defers to VA (Informally)
Department of Justice	Defers to VA
Department of the Treasury	No recommendation

Discussion

H.R. 2735 provides for a substantial revision of the VA medical care program by:

-- expanding the scope of health program benefits available to eligible veterans,



-- liberalizing the eligibility requirements for health benefits, and

-- providing amendments designed to improve the administration of the VA medical care program.

Although the Senate began developing the omnibus bill during the first session of the 94th Congress, the bill was not reported by the Senate Committee on Veterans Affairs until September 3, 1976. The bill was passed by voice vote in both houses during the final days of the 94th Congress.

H.R. 2735 includes a major Administration-sponsored proposal--the extension of the VA physician and dentist pay bonus for an additional year, to September 30, 1977. The Administration generally opposed the provisions liberalizing eligibility and expanding VA medical care services, but supported provisions designed to facilitate better and more efficient administration.

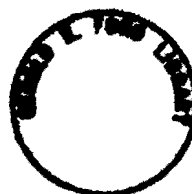
As passed by the Senate, H.R. 2735 contained many highly objectionable provisions at a cost estimated by VA of approximately \$190 million in fiscal year 1977 and \$1.1 billion over five years. Many of these provisions were eliminated by the House, resulting in substantially lower cost estimates--\$45 million in 1977, and \$423 million over the next five years.

A detailed analysis of H.R. 2735 is provided in the attachment to VA's views letter. A brief summary of the principal features of the bill follows:

Expansion of the VA medical benefits. H.R. 2735 significantly broadens the scope of VA's medical care program by initiating a new program of mental health services for the families of service-connected veterans, and by making a major change in medical care eligibility requirements. The combination of these changes plus limited new dental treatment is estimated to add more than 1,000,000 annual outpatient visits to VA's present outpatient program.

Specifically, the enrolled bill:

-- authorizes mental health services, consultation, professional counseling and training on an outpatient basis for the family members of a service-connected veteran when essential to the treatment and rehabilitation



of the veteran; and, at the discretion of the Administrator, for the family members of a non-service-connected inpatient veteran where such services are essential to permit discharge of the veteran from the hospital. Under present law, limited counseling services are available only to family members of inpatients; no outpatient services are available.

-- authorizes outpatient dental care and treatment for a non-service-connected condition of a veteran for which treatment was begun in a hospital and where dental care is necessary to complete hospitalization.

-- allows VA to participate in national immunization campaigns, such as the national swine flu effort.

-- provides total VA health care benefits for any veteran with a service-connected disability rated at 50 percent or more, lowered from 80 percent under current law. This provision makes approximately 500,000 veterans eligible for full VA care and is the most costly provision in H.R. 2735.

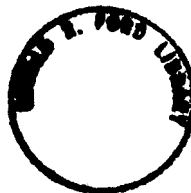
-- establishes in statute a system of priorities for outpatient care stressing priority for veterans with service-connected disabilities.

-- requires VA to operate at least 10,000 nursing home beds by 1980, an increase from the 8,000 now operated.

-- authorizes an expansion of home health services, to include certain home improvements and structural alterations, e.g., ramps and wide doors for disabled veterans.

Many of these program changes will improve VA care overall and will be particularly beneficial to service-connected veterans. However, the family mental health program will require careful implementation to prevent potential program abuse by family members seeking care for problems unrelated to the veteran. The expanded eligibility provided by the new programs will create continuing pressure for greater funding and resource levels.

Administration of VA medical benefits. Many of the detailed provisions in H.R. 2735 are intended to strengthen



and improve the administration of VA medical care. Among others, they include:

-- requirements that VA (1) conduct annual investigations of beneficiary travel reimbursement rates, (2) make no reimbursement for non-service connected medical travel unless the veteran certifies his inability to defray the expenses of such travel, and (3) limit normal reimbursement to common carrier costs.

-- authority to conduct a compensated work therapy program by permitting arrangements with private industry and nonprofit corporations to supply work projects for patient-workers at Fair Labor Standards Act pay rates.

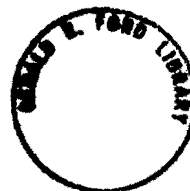
-- authority to transfer veterans from hospitals directly to intermediate care facilities where appropriate instead of transferring them to higher cost nursing homes.

-- authority for VA to prescribe minimum standards of care for State veterans' home facilities receiving financial support from VA.

-- a "protection of patient rights" section providing for the confidentiality of patient medical records and requiring the VA Administrator to establish procedures for obtaining the informed consent of patients and research subjects.

-- a requirement that Medicare payments be made to VA for medical services rendered by VA to a Medicare-covered individual who is treated in a VA health facility under medical resource sharing agreements.

H.R. 2735 requires VA to submit to the Congress (1) a report by the Chief Medical Director on long range adjustments that should be made in the VA health care program to accommodate the growing number of elderly veterans, (2) an annual report appraising the effectiveness of the State medical school program, together with a list of unfunded projects and the funds needed for each project, and (3) a report on the regulations developed by VA with respect to patient rights. The bill also requires VA to notify each individual eligible for new or expanded medical care services within 90 days after enactment.



Most of the program changes discussed above are desirable. The changes in beneficiary travel, intermediate care and Medicare reimbursement will allow resolution of long-standing problems. The beneficiary travel change also notably sharpens the focus of VA care on the service-connected veteran.

As mentioned previously, several highly objectionable provisions which would have resulted in significant immediate and long-term costs were eliminated from the final version of H.R. 2735. Among them were:

-- a broad mental health program for families of non-service-connected veterans,

-- authority for VA to directly admit a non-service-connected veteran to community nursing homes,

-- a major program of readjustment counseling for Vietnam era veterans,

-- an extensive veterans' preventive health care program, and

-- numerous expansions of the veterans' drug and alcohol treatment program.

Also eliminated from H.R. 2735 was a provision extending the physician pay bonus to clinical researchers. Not eliminated was a provision transferring optometrists and podiatrists from the civil service system's general pay schedule to a new, higher pay schedule in VA's Department of Medicine and Surgery.

Cost

VA estimates that H.R. 2735 will cost \$45 million in fiscal year 1977 and \$423 million over the first five years. OMB considers these costs to be overstated for budgetary purposes, because portions of the new outpatient programs can be accomplished within current program resources, and because the buildup of other programs (nursing home beds, for example) already was included in VA's long-range planning. Some supplemental funding will be recommended by OMB during the budget process in order to assist VA in beginning the new programs on a limited basis.



Agency Recommendations

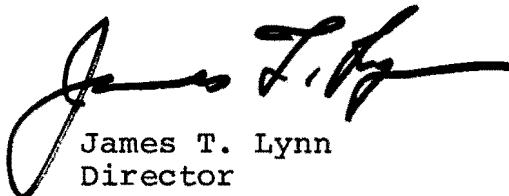
VA recommends approval of H.R. 2735, noting that the most objectionable provisions were eliminated from the enrolled enactment, and that its first year cost is significantly lower than the cost of the bill originally passed by the Senate.

Justice addresses the provisions in H.R. 2735 relating to the confidentiality of medical records. The Department notes that while substantial policy questions are potentially raised by the provisions (since information regarding criminal activity may arise during the course of medical treatment), the bill provides sufficient opportunity to resolve or correct--by regulation or subsequent legislation--any problem that may develop.

* * * * *

We believe that expansion of the medical care system and the liberalization of eligibility requirements to include families and less disabled veterans will result in higher funding levels and will set a precedent for further erosion of the concept on which the VA medical system was developed, i.e., to serve the seriously disabled veteran with service-connected disabilities. In this respect, H.R. 2735 follows a general Congressional pattern of opening up the system to larger numbers of veterans.

Nevertheless, we agree with VA that the most objectionable provisions were eliminated and, on the whole, believe that H.R. 2735 is an acceptable bill. It contains an important Administration-sponsored proposal as well as a number of provisions which VA and OMB believe will enhance improved program administration. Accordingly, we recommend that you sign H.R. 2735 and have attached a draft signing statement for your consideration.



James T. Lynn
Director

Enclosures

B

STATEMENT BY THE PRESIDENT

I am pleased to sign into law today H.R. 2735, the Veterans Omnibus Health Care Act of 1976.

H.R. 2735 significantly improves the scope of medical care services available to our Nation's disabled veterans and their families. It expands the medical care available to veterans with 50 percent or more service-connected disabilities. It also makes available to the families of service-connected veterans a new program of mental health services in order to assure that the disabled veteran and his family can work as a group toward the veteran's rehabilitation and successful recovery. Other provisions of this bill will aid our aging veterans and the veteran population as a whole.

The bill includes an important Administration-sponsored proposal -- the one-year extension of the physician and dentist pay bonus to aid VA in the recruitment and retention of skilled medical personnel. Also included are a number of provisions which will assist VA in strengthening and improving the administration of its medical care system.

H.R. 2735 represents a constructive effort by the Congress and the Administration to improve care for disabled veterans within the context of a responsive and a responsible medical program. It focuses on those veterans who are our top priority -- the veterans with service-connected disabilities -- and for whom the VA medical system was developed.

I believe H.R. 2735 can aid the Administration in continuing to provide high quality medical care for our Nation's veterans, and I am proud, therefore, to approve this bill.



VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D.C. 20420



October 14, 1976

The Honorable
James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This will respond to the request of the Assistant Director for Legislative Reference for the views and recommendations of the Veterans Administration on the enrolled enactment of H.R. 2735, 94th Congress, an Act "To amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to make certain technical and conforming amendments; and for other purposes."

The House, in adopting its amendment to the Senate amendment, significantly reduced the proposal from its original form. Several controversial, as well as expensive, provisions were deleted such as readjustment counseling, preventive medicine, direct admission to community nursing home care for nonservice-connected veterans, special pay for clinical researchers, and a new drug and alcohol program. Other provisions of the original bill have been modified to limit their application.

There are a number of provisions of the enrolled bill which provide needed authority for improved administration of medical benefits, as well as making technical corrections in the law. For example, a system of priorities for the provision of VA medical services to veterans is established by the bill; the beneficiary travel authority is clarified; our authority to provide compensated work therapy programs as part of our rehabilitation programs for hospitalized veterans is clarified; and the bill extended the Department of Medicine and Surgery physician and dentist special pay program.

There are, however, several provisions of the bill to which we remain opposed, such as the provision establishing the service and pay for positions in the Podiatrist and Optometrist services in title 38, and the provision which authorizes the full range of outpatient or ambulatory services at VA facilities for any veteran with a service-connected disability rated at 50 percent or more (rather than the current 80 percent or more). On the other hand, we do not believe that the objection to such provisions is of such a magnitude as to result in a recommendation of withholding approval.

Another aspect worth noting is the reduction in the overall cost of the enrolled enactment over the bill originally passed by the Senate. The enrolled bill carries a first year cost of approximately \$45 million as compared with the original estimate of approximately \$200 million.

There is enclosed a section-by-section analysis of the enrolled bill, together with a chart showing a comparison of the cost of H.R. 2735 as enacted and the text of S. 2908 as originally passed in the Senate.

In view of the foregoing, and after considering all of the circumstances associated with this legislation, and balancing the many desirable features against the few undesirable provisions, I recommend that the President approve H.R. 2735.

Sincerely,



Deputy Administrator - in the absence of

RICHARD L. ROUDEBUSH
Administrator

Enclosures

SECTION-BY-SECTION ANALYSIS OF THE ENROLLED ENACTMENT OF
H.R. 2735, 94th CONGRESS

The first section of the bill provides that the Act may be cited as the "Veterans Omnibus Health Care Act of 1976."

Title I---GENERAL VETERANS HEALTH CARE AND DEPARTMENT
OF MEDICINE AND SURGERY AMENDMENTS

Section 101 would amend section 111 of title 38 by adding a new subsection (e).

Subsection (e), Paragraph (1) directs the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, to conduct periodic investigations of the actual cost of travel, including lodging and subsistence, to beneficiaries while traveling to or from a VA facility or other place, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator would be required to conduct these investigations at least annually and determine the rates of allowances or reimbursement to be paid.



Paragraph (2) provides that in no event shall the rates determined under this section provide for payment (A) unless the person claiming reimbursement for a non-service-connected condition has been determined, based on an annual declaration and certification, to be unable to defray the expenses of such travel; (B) for reimbursement of privately owned vehicle costs unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation, and for any amount in excess of actual expense incurred as certified by the veteran.

Paragraph (3) provides that the factors to be considered in such investigations would include depreciation of original vehicle costs; gasoline and oil costs; maintenance, accessories, parts, and tires; insurance; State and Federal taxes; availability of public transportation; and the expenses of Federal employee travel.

Paragraph (4) provides that before determining rates of allowances or reimbursement the Administrator is required to submit to the Committees of Veterans' Affairs of the Senate and House, a report containing the proposed rates with a justification therefor.

Section 102 of the bill would amend section 601 of title 38, U.S.C., which section contains the definitions specifically applicable to chapter 17 benefits.

Clause (1) makes some basically clarifying changes in the definition of "hospital care."

Clause (2) amends paragraph (6) so that the definition of "medical services" --

(a) includes "rehabilitative services;"

(b) specifically mentions optometrists' and podiatrists' services, even though they have long been considered to be authorized by our present authority;

(c) clarifies circumstances when dental services and appliances (and wheel chairs, artificial limbs and similar appliances) can be furnished;

(d) makes available consultation, professional counseling and mental health services as are necessary in connection with the treatment and training of a family member of a veteran with a service-connected disability pursuant to section 612(a), and, in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)

(1) (B) of title 38, where such services were initiated during the veteran's hospitalization and where the provision of such services on an outpatient basis are

essential to permit the discharge of the veteran from the hospital.

Clause (3) amends the definition of "domiciliary care" to include necessary medical services and ties the transportation and incidental expenses which are available to the provisions of 38 U.S.C. 111.

Clause (4) adds a new paragraph (8) to define the term "rehabilitative services" as being those professional, counseling and guidance services and treatment programs necessary to restore to the maximum extent possible, the physical, mental and psychological functioning of an ill or disabled person. The type of vocational rehabilitation services authorized under chapter 31 are not included. These rehabilitative services may be made available as a form of hospital, nursing home, or domiciliary care, and on an out-patient basis.

Section 103 of the bill makes a number of changes in section 612 of title 38. Clause (1) amends to clarify the authority of the Administrator to furnish to veterans for their service-connected disability, such home health services as are found to be necessary or appropriate for the effective and economical treatment of such disability,

including only such home improvements and structural alterations as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential sanitary facilities, the cost of which does not exceed \$2,500, or reimbursement up to such amount.

Clause (2) redesignates clause (5) of subsection (b) as clause (6) and introduces a new clause (5). The new clause (5) authorizes outpatient dental care and treatment for a non-service-connected condition or disability of a veteran for which treatment was begun during a period of hospitalization, and where such dental care and treatment is reasonably necessary to complete such treatment.

Clause (3) limits the provision of medical services under subsection (f) to those which can be provided "within the limits of VA facilities." Currently, subsection (f) benefits are not so limited.

Clause (4) would limit the availability of medical services on an outpatient or ambulatory basis where such will obviate the need of hospital admission. Such services could be provided only "(to the extent that facilities are available)." This, in effect, provides some additional priority in the type of care or class of beneficiaries which can be treated, making

the "obviate" type care dependent upon facilities being available, and requiring that the pre-hospital care and post-hospital care needs of patients be taken care of first. The last priority in the provision of outpatient non-service-connected care will thus be given to those who need care to avoid or "obviate" hospital admission, and there would be no authority to contract for private non-VA care for this category of individual.

Clause (5) would amend 38 U.S.C. 612(f)(1)(B) to provide that post-hospital care reasonably necessary to complete treatment incident to such hospitalization will be limited to 12 months, unless the Administrator determines that a longer period is required for the disability.

Currently, there is no limit in the law to the period of time for which post-hospital treatment can be given, although administratively a medical determination must be made of continuing need.

Clause (6) amends section 612(f)(2) of title 38 to authorize the Administrator to provide medical services for any condition to any veteran who has a service-connected disability rated 50 percent or more. Currently, this benefit is available to a veteran whose service-connected disability is rated at 80 percent or more.

Clause (7) inserts a new sentence at the end of section 612(f) to authorize home health services (including certain improvements and structural alterations of a minor nature) as required for the effective and economical treatment of a veteran suffering from a nonservice-connected disability, the cost of such services may not exceed \$600, or reimbursement up to such amount.

Clause (8) inserts a new subsection in the law, 612(i), which would require the Administrator to establish by regulations issued within 90 days of the enactment of this subsection a priority system for the furnishing of medical services under subsection (f). Unless compelling medical reasons require such care be provided more expeditiously, the following priority shall be given to a veteran--

- (1) for his service-connected condition;
- (2) who has a service-connected disability rated at least 50 percent;
- (3) who has a service-connected disability, and
- (4) who is eligible for 612(g) benefits by-reason of need for aid and attendance or being permanently house-bound.

Subsection (j) authorizes the Administrator to conduct immunization programs for veterans as part of national immunization programs conducted by the Department of Health, Education,

and Welfare. Veterans receiving care in a VA facility for any disability may be immunized as part of such a national program, and, notwithstanding any other provision of law, vaccine used by the VA at no cost by the Secretary of Health, Education, and Welfare and the VA's regular tort claims procedure under present section 4116 would apply to claims alleging malpractice or negligence on the part of VA personnel in connection with such program.

Paragraph (b) of section 103 of the bill requires the Administrator to annually report to the Congress the results of the priority regulations adopted to implement 612(i).

Section 104 of the bill amends 38 U.S.C. 613(a)(2) to extend medical benefits to the survivors of any veteran, who, at the time of death, was suffering from a permanent total disability resulting from a service-connected disability.

Section 613(a), as currently worded, provides medical care for the wife or child of any veteran who has a total disability, permanent in nature, resulting from a service-connected disability. It also provides medical care for the widow or child of any veteran who died as a result of a service-connected disability. This means that the wife or child who may be currently eligible for medical care by reason of the veteran having a total disability, permanent in

nature, resulting from a service-connected disability, loses that entitlement in the event the veteran dies of a non-service-connected cause.

Section 105 of the bill would amend section 618 of title 38, by making the current provision of law, subsection (a), striking the word "the", and inserting in lieu thereof: "In providing rehabilitative services under this chapter, the". In addition the term "health care facilities" would be substituted for the terms "hospitals and domiciliaries."

New subsection (b)(1), which would be added to section 618, authorizes the Administrator, in providing rehabilitative services, upon the recommendation of the Chief Medical Director, to enter into contractual arrangements with private industry or other sources to provide therapeutic work for pay for patients and members of VA medical facilities.

New subsection (b)(2) would authorize the Administrator to provide rehabilitative services under this section through contractual arrangements with nonprofit entities. This subsection requires the Administrator to establish various controls over such nonprofit entities in connection with such contractual arrangements when such nonprofit entities are utilized. These controls would include fiscal, accounting, management, recordkeeping, and reporting.

Paragraph (1) of new subsection (c) would establish in the United States Treasury a fund known as the Veterans Administration Special Therapeutic and Rehabilitation Activities Fund for carrying out the provisions of subsection (b) of section 618. This paragraph would authorize the Administrator to deposit funds for use in the various rehabilitative services activities in checking accounts selected or established by the Administrator.

Paragraph (2) provides that all funds received by the VA through contractual arrangements made under subsection (b) of this section would be deposited in, or credited to, the fund and the Administrator would, from that fund, pay all participants at rates not less than those specified in the Fair Labor Standards Act and regulations prescribed thereunder for work of similar character.

Paragraph (3) requires the Chief Medical Director to prepare a report of activities carried on under this section. This report will be included in the annual report submitted to Congress under section 214 of this title.

Subsection (d) provides the Administrator shall take appropriate action to make it possible for patients to take maximum advantage of any benefits to which such patient is

entitled under chapters 31, 34, or 35 of title 38, U.S.C. This section would authorize coordinating the rehabilitative services with the pursuit of education and training of patients receiving treatment of a prolonged nature.

Subsection (e) directs the Administrator to prescribe regulations to ensure that the priorities set forth in section 612(i), insofar as possible, be applied for participation in the therapeutic and rehabilitative activities carried out under this section.

Section 105(b)(1) of the bill would authorize the Administrator to settle any claims the VA might have against private nonprofit corporations for the use of VA facilities and personnel in therapeutic work projects for patients conducted by such corporation. The section also authorizes the Administrator to execute a binding release of such claims.

Subsection (b)(2) of section 105 of the bill authorizes the Administrator to utilize any funds received under any settlement authorized by subsection (b)(1) of this section, for any purpose agreed upon by the Administrator and such corporation.

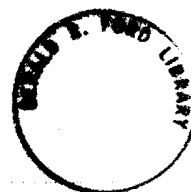
Section 106 would amend section 620(a) of title 38 to increase the maximum cost of nursing home care in any public or private installation not under the jurisdiction of the Administrator from 40 percent of the cost of care furnished by the Veterans Administration in a general hospital under the direct jurisdiction of the Administrator to 45 percent of the cost of such care, or not to exceed 50 percent of such cost in geographical areas as determined necessary by the Administrator upon recommendation of the Chief Medical Director, to provide adequate care.

Section 106 would also add a new subsection (e) to define nursing home care to include intermediate care as determined by the Administrator. The cost of such intermediate care for purposes of payment by the United States shall be determined by the Administrator except that the rate of reimbursement shall be commensurately less than that provided for skilled nursing home care as defined in section 101(28) of title 38.

Section 107 would in subsection (a) amend section 642(a) of title 38 to provide that no payment or grant may be made unless the State home is determined by the Administrator to meet such standards as the Administrator may prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of title 38.

Section 107(b) would also amend section 5034 of title 38 to provide that general standards for furnishing of nursing home care in facilities which are constructed with assistance received under subchapter III of chapter 81 shall meet such standards as the Administrator shall prescribe. Such standards shall be no less stringent than those standards prescribed pursuant to section 620(b) of title 38. The Administrator would be permitted to inspect any State facility constructed with assistance provided under subchapter III at such time as the Administrator deems necessary.

Section 108 would amend section 1903(e) of title 38 to authorize the Administrator to obtain, by purchase, lease, gift, or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to carry out the purposes of the subsection, and to authorize the Administrator to sell, assign, transfer, or convey vehicles to which the Administrator obtains



title for such price and upon such terms as is deemed appropriate, with any proceeds to the Government received therefrom credited to the applicable Veterans Administration appropriation.

Section 109 would amend section 4114(b)(1) of title 38 to authorize the Administrator to establish rates of pay retroactively for residents and interns serving in the Department of Medicine and Surgery.

Section 110(1) requires a Podiatric Service and an Optometric Service in the Department of Medicine and Surgery. Clause (2) requires the appointment of a Director of each of those services. Clause (3) requires appointment under title 38 of podiatrists and optometrists. Clause (4) establishes the qualifications of podiatrists and optometrists. Clause (5) removes podiatrists and optometrists from Civil Service requirements. Clause (6) establishes salaries for the Directors of the new services and for the clinical podiatrists and optometrists.

Clauses (7), (8), (9), (10), and (11) of section 110 make conforming changes in sections 4108 (relating to personnel administration), 4112 (relating to the membership of the Special Medical Advisory Group), 4114 (relating to temporary appointments in the Department of Medicine and Surgery), and 4116 (relating to the liability of title 38 personnel for malpractice or negligence), respectively, to reflect the addition of podiatrists and optometrists to the list of title 38 employees.

Clause (12) of section 110 makes conforming amendments in section 4117 (relating to contracts for scarce medical specialist services) to add appropriate references to podiatrists, optometrists, and schools of podiatry and optometry. The amendment also adds references to schools of osteopathy, nursing, and dentistry (current law refers only to schools of medicine among the many kinds of academic institutions with which contracts for scarce medical specialist services may be entered into).

Section 111 would amend chapter 73 of title 38 to add a new subchapter III entitled--Protection of Patient Rights.

Section 4131 of subchapter III would direct the Administrator upon the recommendation of the Chief Medical Director, to prescribe regulations establishing procedures to ensure that all medical and prosthetic research and to the maximum extent practicable, all patient care furnished under title 38 shall be carried out only with the full and informed consent of the subject/patient or an appropriate representative.

Section 4132 of subchapter III would provide that records of the identity, diagnosis, prognosis, or treatment of any patients which are maintained in connection with a program or activity relating to drug abuse, alcoholism or alcohol abuse or sickle cell anemia education, training, treatment, rehabilitation or research shall, except as described below, be confidential. It will replace, for

Veterans Administration purposes, the provisions of law in two other titles of the United States Code as the statutory bases for confidentiality of drug and alcohol abuse records of patients treated by VA medical facilities.

Those provisions are, respectively, sections 333 and 408 of P.L. 93-282. (21 U.S.C. 1175, for drug records; 42 U.S.C. 4582, for alcohol records). Section 2.1-2.67 of title 42, Code of Federal Regulations issued by the Secretary of Health, Education, and Welfare are currently the authority for VA action in these two areas.

Section 4132(a) adapts the existing law, with virtually identical language in the case of alcohol abuse records, to the Veterans Administration specifically, and adds nothing new to the substantive requirements for confidentiality of these records. Whereas section 333 of P.L. 93-282 referred to records ". . . maintained in connection with the performance of any drug abuse prevention function . . . ," section 4132(a) will apply the language now used in section 408 of P.L. 93-282 to both drug and alcohol patients. The new section will pertain to records ". . . maintained in connection with the performance of any program or activity relating to drug abuse, alcoholism or alcohol abuse . . . education,

training, treatment, rehabilitation, or research"

The new provision is seemingly more extensive as it applies to drug abuse treatment records. It should be viewed as a clarifying provision which will insure that the same standards are applied to both classes of records. Section 4132(a) also applies to sickle cell anemia records.

Section 4132(b) permits the disclosure of such record, in accordance with the prior written consent of the patient according to regulations prescribed by the Administrator. The record may also be disclosed to medical personnel to the extent necessary to meet a bona fide medical emergency. It may also be disclosed to qualified personnel for research, audit or program evaluation purposes but such personnel may not identify an individual patient in any manner.

Section 4132 also provides that the content of such record may be disclosed by an appropriate order of a court of competent jurisdiction after the court determines the need for such disclosure and imposes appropriate safeguards against unauthorized disclosure. Provision is also made for the disclosure of the record of a deceased patient upon the prior written consent of the personal representative of such patient if the

Administrator determines such disclosure is necessary for survivor benefits. While the other provisions of the new section 4132 are based on existing law as cited, section 4132(b)(1)(3) is an original provision, having no precedent in P.L. 93-282 or otherwise. It establishes criteria for disclosure of drug and alcohol abuse and sickle cell anemia records pertaining to deceased persons. No such record may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient except as authorized by a court such as referred to above.

The prohibitions of section 4132 continue to apply to records of a former patient. The section does not apply to any interchange of records among Veterans Administration components furnishing health care to veterans or determining eligibility to benefits under this title, or furnishing health care to veterans, or between such components furnishing health care to veterans and the Armed Forces.

Finally, section 4132 provides for a fine for any person who violates any provision of the section or any regulation issued pursuant thereto. The fine shall be not more than \$500 in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense.

Section 4133 of subchapter III provides that alcohol and drug abusers who are suffering from medical disabilities shall not be discriminated against in admission or treatment solely because of their alcohol or drug abuse or dependence, by any Veterans Administration health care facility. It also provides that the Administrator shall prescribe regulations for the enforcement of this nondiscrimination policy.

Section 4134 of subchapter III provides that Veterans Administration regulations issued to protect patients rights shall, to the maximum extent feasible, make applicable the regulations governing human experimentation and informed consent prescribed by the Secretary of Health, Education, and Welfare, and the confidentiality of drug and alcohol abuse medical records and the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and

Rehabilitation Act of 1960, and the Drug Abuse Office and Treatment Act of 1972. Section 4134 also directs the Administrator, in prescribing and implementing regulations, to consult with the Secretary of Health, Education, and Welfare, and the Director of Special Action Office on Drug Abuse Prevention and to submit a full report, with respect to the regulations, to the appropriate House and Senate committees. Since regulations were already required to be issued in conjunction with the Secretary by P.L. 93-282, with a report to the Congress, the main difference is the need to include sickle cell anemia records within these regulations.

The VA is in compliance with the HEW regulations, accordingly this amendment to title 38 would result in no change in our practices.

Section 111(b) amends section 653(b) of title 38 to provide that patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions as prescribed in section 4132 of title 38.

Section 112 would amend Public Law 94-123, in order to extend until September 30, 1977, the special pay program for DM&S physicians and dentists.

The second part of this provision is similar in purpose with the draft bill which the Administrator submitted to the Speaker of the House of Representatives on May 20, 1976.

In October 1975, the Congress enacted Public Law 94-123, wherein the Congress found and declared: (1) that the ceiling on the salary of physicians employed in the Department of Medicine and Surgery due to the Federal salary limitation under the Executive Schedule rates of pay in title 5, United States Code, accompanied by the sharp escalation in the cost of living since those rates of pay were last increased in 1969, seriously impaired the recruitment and retention of qualified physicians by the Department of Medicine and Surgery in the Veterans Administration; and (2) that the compensation provided to physicians and dentists in the Department of Medicine and Surgery had been rendered noncompetitive by virtue of the payment of special pay of up to \$13,500 per annum, in addition to basic compensation and other benefits, to certain medical officers, and monthly special continuation pay cumulating approximately half such amount to certain dental officers, of the uniformed

services, pursuant to title 37 of the United States Code and Public Law 93-274. The Congress further found and declared that these recruitment and retention difficulties created an inequitable and demoralizing situation in the Department of Medicine and Surgery that threatened to erode seriously the ability of the Department to compete for the services of the necessary health care professionals and thereby to continue to provide quality health care to eligible veterans.

The act provided a comprehensive program of primary and incentive special pay for physicians and dentists employed in the Department of Medicine and Surgery. Moreover, it required the Comptroller General of the United States and the Director of the Office of Management and Budget to study, evaluate, and investigate--(1) the short-term and long-term problems facing the departments and agencies of the Federal Government (including the uniformed services) in recruiting and retaining qualified physicians and dentists; (2) the extent to which the implementation of a uniform system of pay, allowances, and benefits for all physicians and dentists employed in such Federal departments and agencies would alleviate or solve such recruitment and retention problems; (3) such other solutions to such recruitment and retention problems as each deems appropriate; and

(4) (A) an identification of appropriate alternative suggested courses of legislative or administrative action (including proposed legislation) and cost estimates therefor, which in the judgment of the Comptroller General or Director would solve such recruitment and retention problems, and (B) a recommendation, and justification therefor, of which course should be undertaken.

The Administrator of Veterans Affairs, and the Secretaries of the Department of Defense, and the Department of Health, Education, and Welfare have cooperated in the conduct of these studies.

Since the enactment of the new special pay program, we have been collecting data from our medical care facilities in order that we might report to Congress as required by law, and to cooperate with other Federal departments and agencies. Preliminary data indicates that this special pay program has had a positive impact on our ability to recruit and retain physicians in the Department of Medicine and Surgery.

The Congress has recently extended the contract authority for the Uniformed Services for one year or until September 30, 1977 (Public Law 94-361, H.R. 12438, section 305).

For the Veterans Administration, extension of the current program would mean that Department of Medicine and Surgery physicians and dentists could execute agreements under the provisions of section 4118 of title 38 until September 30, 1977.

Section 113 would amend section 4123 to provide that proceeds received from the training of personnel at Regional Medical Education Centers shall be credited to the applicable Veterans Administration medical appropriation.

Under current law, the VA is authorized to be reimbursed for training non-VA personnel in VA Regional Medical Education Centers. The monies received for such services go directly to the Treasury as miscellaneous receipts which is standard fiscal procedure.

Section 114 of the bill would amend section 5001(a)(3) of title 38, to require the Administrator, subject to the approval of the President, to establish and operate not less than ten thousand beds in fiscal year 1980 and in each fiscal year thereafter for the furnishing of nursing home care to eligible veterans in facilities over which the Administrator has jurisdiction. Current law requires the establishment and operation of not less than eight thousand VA nursing home care beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter.

Section 115 of the bill would amend subchapter IV of chapter 81 of title 38.

Clause (1) of section 115 adds a new subsection (d) to the present section 5053, title 38, United States Code. It would require that Medicare payments be made to the VA for hospital care or medical services rendered by the VA to a Medicare-covered individual not eligible for care under chapter 17 of this title, and who sought treatment from a non-VA facility but received some care or services from the VA pursuant to a sharing contract authorized under 38 U.S.C. 5053. It would require the Secretary of HEW and the Administrator to jointly prescribe quality control and efficient utilization procedures regarding the treatment for which Medicare must pay. It should be made clear that this requirement does not apply beyond the treatment for which Medicare reimburses.

Reimbursement rates for such treatment would be set by HEW after consultation with the Administrator. Essentially, this should mean that the service would be rendered and reimbursed for at "reasonable cost." This figure would in effect, become the charge reflected in the VA-non-VA sharing agreement for Medicare-covered treatment.

While the VA would continue to be obligated to obtain "full cost reimbursement" under 5053, the two reimbursement tests can be reconciled. The provision would require that payments be made to either the VA or the non-sharing facility, as indicated in the sharing contract. Presumably, the deductible or coinsurance which the patient is required to pay under Medicare would be the responsibility of the non-VA facility which enters into the sharing contract with the VA facility.

This provision would enable Medicare-covered patients to receive the benefits to which they are entitled while enabling VA and non-VA health care institutions to share scarce medical resources in the treatment of such patients by non-VA facilities. This authority will encourage cost control and improved quality of care regarding such patients by avoiding duplication in the acquisition of such resources, and by permitting a concentration of health care provider expertise in these very sophisticated and specialized areas of treatment.

Clause (2) of section 115 of the bill would amend section 5056 of title 38 to change the reference to the Public Health Service Act and eliminate the current reference to the Heart Disease, Cancer, and Stroke Amendments of 1965, and insert a reference to activities carried out under the National Health Planning and Resources Development Act of 1974.

Subsection (b) of section 115 of the bill would make conforming changes to the table of sections at the beginning of chapter 81 of title 38.

Subsection (c) of section 115 of the bill would require, at such time the preceding rates and procedures are prescribed, the submission of a full report describing such rates and procedures, to the House Committee on Ways and Means and the Committee on Veterans' Affairs, and to the Senate Committee on Finance and the Committee on Veterans' Affairs. Such report

would be submitted by the Secretary of Health, Education, and Welfare, in consultation with the Administrator of Veterans' Affairs.

Section 116 of the bill would amend chapter 82 of title 38 as follows:

Clause (1) would redesignate subsections (e) and (f) of section 5070 of title 38 as subsections (f) and (g) and insert in such section 5070 a new subsection (e) to provide that the exception to the normal three-year leasing authority currently applicable to leases made for the purpose of Subchapter I of chapter 82, be extended to the provisions of Subchapter II and III of that chapter.

As a part of a program of assistance to States for the establishment of new medical schools, Subchapter I of Public Law 92-541, approved October 24, 1972, authorized the VA to lease lands and buildings under its control to grantee institutions. By a special exception contained in section 5073(a) such leases executed under Subchapter I are not limited to the normal three-year period. This proposed amendment would extend that provision

to apply to the provisions of the other subchapters in chapter 82, thus permitting the making of long-term leases to existing medical and other health professions schools with which VA medical facilities are affiliated, as a part of the assistance that may be provided under these authorities.

Under current law State governments (on behalf of State universities) as well as Boards of Directors (on behalf of private institutions) are understandably reluctant to enter into construction projects under a lease limited to three years, shorter even than the term of the grant itself.

Clause (2) of section 116 of the bill would insert a new subsection (h) at the end of section 5070 of title 38 which would require the Administrator to report to the Congress within ninety days after the end of each fiscal year on the activities carried out under chapter 82 of title 38, including specific aspects of the program such as (1) an appraisal of the effectiveness of the programs, (2) the contributions of such programs in improving health care personnel under title 38, (3) a list of approved, but unfunded projects, and amounts needed for each, and (4) recommendations for improvement of programs.

Clause (3) of section 116 of the bill would strike out paragraph (1) of section 5073(a) of title 38, redesignating paragraphs (2) and (3) as paragraphs (1) and (2) respectively.

Section 117 of the bill in subsection (a) would require the Chief Medical Director to carry out or provide for a study to determine the short-range and long-range direction of the hospital and medical program carried out under title 38 with reference to the increasing average age of the eligible veteran population. The result of the study would be furnished the appropriate committees of Congress by the Chief Medical Director through the Administrator, not later than twelve months after the date of enactment of this Act. The report would include, but not be limited to, specific plans for--

- (1) increasing the number of all types of VA care beds;
- (2) increasing nursing home care (including intermediate and personal care) in community facilities;
- (3) emphasizing training for health care of elderly persons;

- (4) expanding alternatives to institutional care;
- (5) emphasizing treatment programs to meet the health care needs of an aging population;
- (6) meeting the special architectural, transportation, and environmental needs of an aging population; and
- (7) conducting biomedical and health services research designed to solve geriatric care problems.

Subsection (b) of section 117 of the bill requires the Administrator to take appropriate steps, not later than ninety days after the date of enactment, to ensure that, to the maximum extent feasible, each individual eligible for new or expanded care and services as a result of the amendments made by this Act, be personally notified about them and copies of such notifications be furnished to the appropriate committees of the Senate and House and a description of how such forms were distributed.

TITLE II -- MEDICAL TECHNICAL
AND CONFORMING AMENDMENT

Section 201 would cite title III as the "Veterans Medical Technical and Conforming Amendments of 1976."

Section 202 in subsection (a), would amend the title of chapter 17 by inserting the words "NURSING HOME" in such title. This technical change is being made to reflect a benefit which is currently available.

Subsection (b) (1) of section 202 would amend section 601(4)(A) to delete the requirement that a Veterans Administration facility be one over which the Administrator has exclusive jurisdiction. The reference to the exclusive jurisdiction of the Administrator was made obsolete by the addition of section 5007 to title 38, by Public Law 93-82. Many Veterans Administration facilities are now within the concurrent jurisdiction of local authorities.

Subsection (b) (2) of section 202 of the bill would amend the definition of VA facilities contained in section 601 (4) of title 38, to include a more refined authority to contract for private facilities. Specifically, subclause (2)(A) would provide contract authority for hospital care or medical services for any of the categories of individuals now listed in section 601(4)(C), when facilities

under the jurisdiction of the Administrator, or other Government facilities, are not capable of furnishing economical care, because of geographic inaccessibility or of furnishing the care or services required. Subclause 2(C) would provide contract authority (hospital care or medical services) to treat any service-connected disability, or a disability for which a veteran was discharged or released from active military, naval, or air service; or a veteran being treated on a post VA hospital basis, or being treated for a service-connected disability rated at 50 percent or more, as well as hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving hospital care in a facility described in clause (A) or (B) of this paragraph.

Subclause (3) would amend section 601(5) and ties transportation benefits for both service-connected and non-service-connected to the provisions of section 111 of title 38.

Subsection (c) of section 202 would amend the title of subchapter II of chapter 17 by inserting the words "Nursing Home" in such title. This technical change is being made to reflect a benefit which is currently available.

Subsection (d)(1) of section 202 would amend the catch line of section 610 by inserting the words "nursing home." This technical change is being made to reflect a benefit which is currently available.

Subsection (d)(2) of section 202 would amend subsection (a)(1)(B) of section 610 by inserting the words "nursing home." This technical change is also being made to reflect a benefit which is currently available.

Subsection (d)(3) of section 202 would amend section 610(b)(2) to remove the requirement that a veteran, in order to receive Veterans Administration domiciliary care, be a veteran of a war or of service after January 31, 1955.

This would have the effect of opening VA domiciliaries to the peacetime veteran.

Subsection (e) (1) of section 202 would amend the title of section 611 to permit the Administrator to furnish care, by VA personnel, during examinations and in emergencies rather than just hospitalization. This change is duplicative of a change made in title I of the bill.

Subsection (e) (2) of section 202 would amend section 611(b) to permit the Administrator to furnish medical services as a humanitarian service in emergencies. The present 611(b) only provides for furnishing hospital care in such cases. Emergency cases requiring only outpatient care, as in the case of a deep wound requiring immediate attention without hospital admission, or a community disaster, would be covered by this new authority. Since needed care obviously cannot be refused in an emergency situation, the amendment would merely provide the technical authority which was inadvertently not provided when the present emergency humanitarian treatment language was enacted.

Subsection (f) (1) of section 202 would correct a technical error in section 612(e) with reference to veterans of Indian Wars. Section 612(e) currently uses the term "Indian wars." This amendment merely replaces the lower case "wars" with the grammatically correct upper case "Wars."

Subsection (f) (2) of section 202 would amend section 612(f) (1) (B) to change the term "granted hospital care" to "furnished hospital care."

Subsection (f) (3) of section 202 would amend section 612(g) to require that veterans described therein only be furnished medical services within the limits of Veterans Administration facilities.

Subsection (g) of section 202 would substitute the term "Office of Management and Budget" for the term

"Bureau of the Budget" in section 616. The Bureau of the Budget was redesignated the Office of Management and Budget by Reorganization Plan No. 2 of 1970. This change reflects the redesignation.

Subsection (h) of section 202 would amend section 620(a) of title 38 by striking out "and exclusive" in clause (1) and by striking out "from time to time" in clause (ii) and inserting annually. These changes merely conform existing law to current practice.

Subsection (i) of section 202 would amend the title of subchapter III of chapter 17 by inserting the words "Nursing Home" in such title. This technical change is being made to reflect a benefit which is currently available.

Subsection (j) of section 202 would amend clauses (1) through (3) of section 621. This section currently permits the Administrator to prescribe rules and regulations governing the furnishing of hospital and domiciliary care. The addition of nursing home care merely reflects a benefit which is currently available.

Subsection (k) of section 202 would amend subsection (a) of section 622. This section pertains to the statement under oath of an applicant of inability to defray necessary expenses. The reference in section 622 to "section 610(a)(1)" would be changed to "section 610(a)(1)(B)," and the reference to "section 632(b)" would be

changed to "section 632(a)(2)." The current reference to section 610(a)(1) would require a statement of inability to defray expenses from both veterans with a service-connected and non-service-connected condition. The current reference to section 632(b) relates to payments to the Republic of the Philippines rather than to the care and treatment of veterans with a non-service-connected disability. These technical changes, though necessitated by the passage of Public Law 93-82, were inadvertently omitted at that time. This amendment will correct the oversight. These technical changes are being made to accurately cite the various subsections referred to.

Subsection (l) of section 202 would amend section 624(c) to remove the requirement that a veteran be a veteran of any war to receive hospital care in the Philippines for any non-service-connected disability.

Subsection (m) of section 202 of the bill would amend section 627 by striking out "1958" and inserting "1957." That section is a savings provision which was intended to preserve entitlement to certain VA benefits of certain individuals who met service requirements under law prior to the codification of title 38, United States Code, but would fail to meet those requirements on the effective date



of that codification. Those laws were codified by Public Law 85-56, which carried an effective date of January 1, 1958. Therefore, the savings clause should have preserved that entitlement as of the day before the effective date, which would have been on December 31, 1957. This amendment would correct that error.

Subsection (n) of section 202 would amend subsection (a)(1) of section 628 to correct a grammatical error. Section 628, added by Public Law 93-82, provides, in pertinent part "where such care and services were rendered in a medical emergency of such nature that they would have been hazardous to life or health." The word "they" should be changed to read "delay." This amendment effects the change.

Subsection (o) of section 202 would amend section 641 to delete the requirement that a veteran be a veteran of a war or of service after January 31, 1955, to receive care in a State home.

Subsection (a) of section 203 would amend the table of chapters and parts at the beginning of title 38 and the table of chapters at the beginning of part II of such title to insert the words "Nursing Home." This technical change is also being made to reflect a benefit which is currently available.

Subsection (b) of section 203 would amend the table of sections at the beginning of chapter 17 by inserting the words "Nursing Home" in the title of subchapter II, the title of section 610, and title of subchapter III. This technical change is also being made to reflect a benefit which is currently available.

Subsection (b) of section 203 would also amend the title of section 611 to substitute "Care" for "Hospitalization" during examinations and in emergencies.

Section 204 would amend section 903(a) to permit the payment of burial costs and necessary transportation of the body when a veteran dies in a Veterans Administration facility to which he was properly admitted for nursing home care under section 610 or 611(a). Under current law, such expenses are authorized for individuals who die while receiving VA hospital or domiciliary care. Though Public Law 93-82 sought to equalize eligibility for care in VA hospitals, domiciliaries, and nursing care facilities, it

inadvertently omitted the extension of this burial benefit to VA nursing home beneficiaries.

Subsection (a) (1) of section 205 would amend section 4101(a) to describe, in such subsection, the primary function of the Department of Medicine and Surgery as being one to provide a complete medical and hospital service for the medical care and treatment of veterans.

Subsection (a) (2) of section 205 would amend section 4101(b) to delete the above phrase.

Subsection (a) (3) would further amend section 4101 by redesignating subsection (c) as subsection (d) and inserting a new subsection (c).

New subsection (c) (1) of section 4101 would direct the Administrator to carry out a program of medical research, including biomedical, prosthetic, and health care services research, and stressing research into spinal cord injuries and diseases and other disabilities that lead to paralysis of the lower extremities.

The proposed change in 38 U.S.C. 4101(c) (1) contained in section 305(a) (3) beginning with, "including biomedical, . . ." and ending with "of the lower extremities" is unnecessary and the last 20 words beginning with, "and

stressing research . . ." is purely directive.

Subsection (c) (2) of section 4101 would define prosthetic research as including research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices and would direct the Administrator to make the results of such research available to any person, and to consult with the Secretary of Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare, in connection with programs administered by them.

Subsection (c) (3) (A) through (H) of section 4101 would authorize the Administrator to provide, in a contract for research which involves a risk of an unusually hazardous nature, that the United States will indemnify the contractor against certain types of liability to third persons or loss of or damage to property of the contractor. Subsection (c) (3) also provides controls over and provisions for such payment.

Subsections (b) and (c) of section 205 are technical in nature and would reflect in the heading of section, subsections, and the table of sections the prior amendments with respect to research and development and indemnification of contractors.

Subsection (d)(1) of section 205 would amend section 4103(a)(2) and (3) to clarify the current practice that the appointment of the Deputy Chief and Associate Deputy Chief Medical Directors is made by the Administrator "upon recommendation of the Chief Medical Director."

Subsection (d)(2) of section 205 would amend section 4103(a)(4) to correct a grammatical error.

Subsection (d)(3) of section 205 would amend section 4103(b)(3) to provide that any person whose appointment under section 4103 is extended would be subject to removal by the Administrator for cause. The Administrator's current authority to remove for cause is limited to persons appointed or reappointed.

Subsection (d)(4) of section 205 would amend section 4103(c) to authorize the Administrator to redesignate a member of the Chaplain Service as Director, Chaplain Service, for any period not exceeding 2 years. Re-designations are currently for 2-year periods, as is the original designation. Clause (C) would clarify that redesignations could be made for periods of less than 2 years.

Subsection (e) of section 205 would amend section 4105(a) (6) to provide that an optometrist must hold the degree of doctor of optometry or its equivalent from a school of doctor of optometry or its equivalent from a school of optometry approved by the Administrator.

Subsection (f) of section 205 would amend section 4108(b) by changing the significance of the reference to section 4112(b). Although an affiliation agreement is a prerequisite to the applicability of an advisory committee called for in section 4112(b), said section is not basic authority for the agreement itself. Therefore, the change from "pursuant to" to "as referred to in" more accurately describes the situation.

Subsection (g) of section 205 would amend section 4114(b) by amending paragraph (3) (as redesignated by section 112(a) (3) of this bill) to define the term "intern" to include an internship or the equivalency thereof, as determined in accordance with regulations which the Administrator shall prescribe, and to define the term "intern" to mean a person serving an internship.

Subsection (a) of section 206 would amend section 5001(a)(2) to remove the requirement that the Administrator have exclusive jurisdiction over hospital facilities and to correct a grammatical error. The word "tuberculous" would be substituted for the word "tuberculosis," which is erroneous in the context used in the subsection. The pertinent portion of the subsection would then read "eligible veterans who are tuberculous."

Subsection (b) of section 206 would amend subchapter III of chapter 81 to remove the requirement, in several sections of the subchapter, that a veteran be a veteran of a war in order to receive nursing home care in a State home facility.

Subsection (c) of section 206, would amend section 5053 to make technical clarifying changes.

Subsection (d) of section 206 would amend section 5054(b) to correct a grammatical error.

Subsection (e) of section 206 would amend section 5055(a) in order to reflect the current organization of the Department of Medicine and Surgery. When the Exchange of Medical Information program was enacted, the

Assistant Chief Medical Director for Research and Education in Medicine was the official charged with the responsibility of administering the program. However, because of a subsequent reorganization in that Department, another official has been assigned that function. Therefore, the proposed amendment would give sufficient flexibility in the law to assure the attendance of an appropriate Assistant Chief Medical Director charged with responsibility over the program at meetings of the Advisory Subcommittee of the Special Medical Advisory Group.

Section 207 would amend section 5083(a) to delete the reference to any medical school affiliated with the Veterans Administration under an agreement entered into pursuant to subchapter IV of chapter 81 of this title. This would correct a technical error since subchapter IV of chapter 81 does not relate to the affiliation of a medical school with the VA, and the language as now used is meaningless.

Subsection (a) of section 208 would amend section 5202 to provide that the Administrator may dispose of the

unclaimed personal property of a dependent or survivor of a veteran who dies while receiving care in a Veterans Administration medical facility. Through oversight, this section was not amended at the time of passage of Public Law 93-82, which authorized such care.

Subsection (b) of section 208 would amend section 5220(a) to provide that the property of a dependent or survivor of a veteran who dies while receiving care in a Veterans Administration medical facility shall vest in the United States if the deceased leaves no surviving heirs. Through oversight, this section was not amended at the time of passage of Public Law 93-82, which authorized such care.

Subsection (c) of section 208 would amend section 5221 to provide that the fact of death of a dependent or survivor of a veteran who dies while receiving care in a Veterans Administration medical facility, and leaves no surviving heirs, shall give rise to a conclusive presumption of a valid contract for the disposition of all property left by the decedent. Through oversight, this section was not amended at the time of passage of Public Law 93-82, which authorized such care.

Section 209 in referring to various subsections, would amend subchapter I of chapter 73 to make various language changes in addition to including, for purposes of sections and subsections of the subchapter, in addition to nurses, such other specialties as physicians' assistants and expanded-duty dental auxiliaries. These changes to the organization of the Department of Medicine and Surgery were necessitated by the passage of Public Law 94-123, the Veterans Administration Physician and Dentist Comparability Act of 1975, which authorized the appointment of these additional personnel.

Section 210 would make various gender changes in title 38.

Section 211 would provide that amendments made by the bill to title 38 would be effective October 1, 1976, or upon the date of enactment, whichever is later.



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

15 October 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

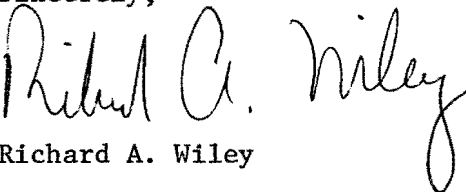
Reference is made to your request for the views of the Department of Defense with respect to the enrolled enactment H.R. 2735, 94th Congress, an Act "To amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans Administration health care facilities; to make certain technical and conforming amendments; and for other purposes."

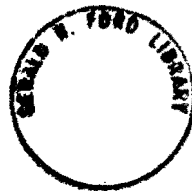
The Department of Defense is sympathetic to the purposes of this Act, but whether or not these purposes would be best achieved by this legislation, the Department of Defense defers to the views of the Veterans Administration.

Cost and Budget Data

This bill would not result in any increased cost to the Department of Defense.

Sincerely,


Richard A. Wiley



Department of Justice
Washington, D.C. 20530

October 14, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, we have examined a facsimile of the enrolled bill H.R. 2735, "To amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to make certain technical and conforming amendments; and for other purposes." Consistent with your request, we have focused particularly on Section 111 and Section 205 of the enrolled bill.

Section 111 of the enrolled bill would add a new subchapter to chapter 73 of title 38, United States Code, which would provide, inter alia, for the confidentiality of certain medical records maintained by the Veterans' Administration. The affirmative requirements of the enrolled bill in this regard would be contained in a new section 4132 of title 38. These requirements are virtually identical to those now contained in section 408 of the Drug Abuse Office and Treatment Act of 1972, Pub. L. No. 92-255, 86 Stat. 65, and, in essence, they prohibit the disclosure of any record of the identity, diagnosis, prognosis, or treatment of any patient or subject which is maintained in connection with the performance of any program or activity relating to drug abuse, alcoholism or alcohol abuse to any law enforcement official absent a court order. Substantial policy questions are potentially raised by these provisions since information regarding prospective criminal activity directed against persons or property or past criminal activity for which a third party has been accused may arise in the course of such treatment. Determination of an appropriate response to such information is confused by the failure of the statute to indicate what information may initially be disclosed to a court in the process of seeking an order for further dis-

closure as well as what information may be preliminarily disclosed within the Veterans' Administration in the course of consideration of whether to seek a court order.

These problems may be resolvable, however, through regulations prescribed by the Administrator under section 4134(a) of the new chapter. That section provides:

Such regulations may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b) (2) (C) of this title) as are necessary to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

Furthermore, under subsection (b) of section 4134, the Administrator is required to submit to the appropriate committees of Congress not later than 60 days after the effective date of the subsection a report with respect to the regulations prescribed pursuant to subsection (a), which report shall include, inter alia, such recommendations for legislation and administrative actions as the Administrator determines are necessary and desirable. Thus, should problems in drafting regulations occur, an opportunity to obtain a clarification of congressional intent is provided.

Section 205 essentially provides that the Administrator may provide for indemnity in a contract or research authorization, the performance of which involves a risk of any unusually hazardous nature, to the extent not covered by required financial protection. We have no objection to Section 205.

While we note the above, this enrolled bill is a matter of primary concern to agencies other than the Department of Justice, and we defer to those agencies more directly concerned with the subject matter as to whether this enrolled bill should receive Executive approval.

Sincerely,



Michael M. Uhlmann
Assistant Attorney General



THE DEPUTY SECRETARY OF THE TREASURY

WASHINGTON, D.C. 20220

OCT 14 1976

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

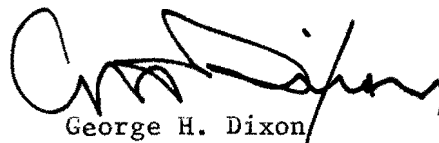
Reference is made to your request for the views of this Department on the enrolled enactment of H.R. 2735, "To amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to make certain technical and conforming amendments; and for other purposes."

The provisions of primary interest to this Department are found in section 105(c)(1) and (2). Under section 105(c)(1), a revolving fund known as the Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund would be established in the Treasury of the United States. This fund would be used to furnish certain rehabilitative services for patients and members in Veterans' Administration health care facilities, as mentioned in section 105(b). In addition, the Administrator of Veterans' Affairs would be allowed to authorize deposits from the fund to checking accounts in other depositories for the operation of the rehabilitative services activities.

Under section 105(c)(2), all funds received by the Veterans' Administration which are derived from contractual arrangements for rehabilitative services, pursuant to section 105(b), would be deposited or credited to the revolving fund.

The Department has no objections with regard to section 105(c)(1) and (2). However, based on our limited interest in the subject matter of the enrolled enactment, we have no recommendation concerning the merits of this legislation.

Sincerely yours,



George H. Dixon

Cost Comparison
S-2908 & H.R.2735
(\$ in thousands)

Title I Section	FY 1977		FY 1978		FY 1979		FY 1980		FY 1981		TOTAL COST 5 YEAR	
	S-2908	H.R.2735	S-2908	H.R.2735	S-2908	H.R.2735	S-2908	H.R.2735	S-2908	H.R.2735	S-2908	H.R.2735
S.2908	H.R.2735											
101	101	Beneficiary Travel	...	...	...	...	...	...	...	...	...	...
102	102	Family Mental Health Svcs.	21,299	6,889	20,867	6,889	19,529	6,889	19,529	6,889	100,753	34,445
104	103	Home Health Svcs. S/C	250	250	750	750	625	625	500	500	2,500	2,500
104	103	Outpatient Dental Svcs. & Treat NSC	8,100	5,076	8,900	5,076	9,800	5,076	10,800	5,076	49,600	25,390
104	103	S/C from 80% to 50%	30,192	31,340	31,350	32,542	32,507	34,398	33,138	34,398	160,956	167,076
104	103	Home Health Svcs. NSC	750	750	2,250	2,250	1,875	1,875	1,500	1,500	7,500	7,500
105		Readjustment Counseling	12,418	...	9,738	...	1,460	...	1,460	...	26,536	...
106	104	CHAMPVA	91	91	91	91	91	91	91	91	455	455
108		Direct Admission to CNH for NSC Veterans	17,658	...	12,949	...	14,245	...	15,671	...	77,760	...
108	106	Intermediate Comm. Nursing	(3,504)	(3,504)	(3,723)	(3,723)	(3,942)	(3,942)	(4,172)	(4,172)	(19,721)	(19,721)
109		Eligibility of Peacetime Vets. for State Home Care	474	...	474	...	474	...	474	...	2,370	...
110		Preventive Health Care	95,485	...	95,484	...	95,484	...	95,484	...	477,421	...
113(1)		Non Physician HC Personnel	1,000	...	1,000	...	1,000	...	1,000	...	5,000	...
114	110	Podiatrists & Optometrists	582	649	1,400	1,507	2,299	2,451	3,286	3,486	11,933	12,711
116		Spec. Clinical Research Pay	980	...	931	...	833	...	735	...	3,528	...
116	112	Extension of PL. 94-123	3,400	3,400	7,600	7,600	6,600	6,600	5,900	5,900	27,000	27,000
119	114	VANHC Beds (10,000)	...	...	9,087	9,385	51,888	52,832	63,613	65,071	161,018	165,172
		SUB TOTAL	189,175	44,941	199,148	62,367	34,768	106,240	249,000	118,739	1,094,600	422,518
		Title II Section										
		Drug & Alcohol Program	11,511	...	6,245	...	6,290	...	6,335	...	36,829	...
		GRAND TOTAL TITLE I & II	200,686	44,941	205,393	62,367	241,058	106,240	255,344	118,739	1,131,430	422,518

Note: Cost for H.R.2735 Includes October 76 Pay Increase

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 18

Time: 900pm

FOR ACTION: David Lissy
 Max Friedersdorf *on*
 Bobbie Kilberg *on* Bill Seidman *on*
 Robert Hartmann
 Jeanne Holm

cc (for information): Jack Marsh
 Steve McConahey
 Ed Schmults
 Mike Duval

FROM THE STAFF SECRETARY

DUE: Date: October 19

Time: 200pm

SUBJECT:

H.R.2735-Veterans Omnibus Health Care Act of 1976

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

10/19/76 - 8:30 am

THE WHITE HOUSE
WASHINGTON

ACTION MEMORANDUM

LOG NO.: *ok [signature]*

Date: October 18

Time: 900pm

FOR ACTION: David Lissy
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann
Jeanne Holm

cc (for information): Jack Marsh
Steve McConahey
Ed Schmults
Mike Duval

*412 pgs 9:30
to 10/19 GAm*

*to DJS
10/19 11:05
GAm*

FROM THE STAFF SECRETARY

DUE: Date: October 19

Time: 200pm

SUBJECT:

H.R.2735-Veterans Omnibus Health Care Act of 1976

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

STATEMENT BY THE PRESIDENT

ok/jl

*Attached
Synon back-up*

I am pleased to sign into law today H.R. 2735, the Veterans Omnibus Health Care Act of 1976.

H.R. 2735 significantly improves the scope of medical care services available to our Nation's disabled veterans and their families. It expands the medical care available to veterans with 50% or more service-connected disabilities. It also makes available to the families of service-connected veterans a new program of mental health services in order to assure that the disabled veteran and his family can work as a group toward the veteran's rehabilitation and successful recovery. Other provisions of this bill will aid our aging veterans and the veteran population as a whole.

The bill includes an important Administration-sponsored proposal--the one-year *ok* extension of the physician and dentist pay *ok* bonus to aid VA in the recruitment and retention of skilled medical personnel. Also included are a number of provisions which will assist VA in strengthening and improving the administration of its medical care system.

H.R. 2735 represents a constructive effort by the Congress and the Administration to improve care for disabled veterans within the context of a responsive and a responsible medical program. It focuses on those veterans who are our top priority--the veterans with service-connected disabilities--and for whom the VA medical system was developed.

I believe H.R. 2735 can aid the Administration in

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 11

Date: October 18

Time: 900pm

FOR ACTION: David Lissy
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann
Jeanne Holm

cc (for information): Jack Marsh
Steve McConahey
Ed Schmults
Mike Duval
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: October 19

Time: 200pm

SUBJECT:

H.R.2735-Veterans Omnibus Health Care Act of 1976

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

rejection
Kelley 10/19/76

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 11

Date: October 18

Time: 900pm

FOR ACTION: David Lissy
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann
Jeanne Holm

cc (for information): Jack Marsh
Steve McConahey
Ed Schmults
Mike Duval
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: October 19

Time: 200pm

SUBJECT:

H.R.2735-Veterans Omnibus Health Care Act of 1976

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*Recommend
Approval.
mef*

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 11

Date: October 18

Time: 900pm

FOR ACTION: David Lissy
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann
Jeanne Holm

cc (for information): Jack Marsh
Steve McConahey
Ed Schmults
Mike Duval
Bill Seidman ✓

FROM THE STAFF SECRETARY

DUE: Date: October 19

Time: 200pm

SUBJECT:

H.R.2735-Veterans Omnibus Health Care Act of 1976

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

APPROVE - LWS

10/19/76 - 8:30 am

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 11

Date: October 18

Time: 900pm

FOR ACTION: David Lissy
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann
Jeanne Holm

cc (for information): Jack Marsh
Steve McConahey
Ed Schmults
Mike Duval
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: October 19

Time: 200pm

SUBJECT:

H.R.2735-Veterans Omnibus Health Care Act of 1976

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

10/19 - Copy sent for researching. nm
10/19. Researched copy returned. nm

Signing Statement
OK

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

STATEMENT BY THE PRESIDENT

I am pleased to sign into law today H.R. 2735, the Veterans Omnibus Health Care Act of 1976.

H.R. 2735 significantly improves the scope of medical care services available to our Nation's disabled veterans and their families. It expands the medical care available to veterans with 50% or more service-connected disabilities. It also makes available to the families of service-connected veterans a new program of mental health services in order to assure that the disabled veteran and his family can work as a group toward the veteran's rehabilitation and successful recovery. Other provisions of this bill will aid our aging veterans and the veteran population as a whole.

The bill includes an important Administration-sponsored proposal--the one-year extension of the physician and dentist pay bonus to aid VA in the recruitment and retention of skilled medical personnel. Also included are a number of provisions which will assist VA in strengthening and improving the administration of its medical care system.

H.R. 2735 represents a constructive effort by the Congress and the Administration to improve care for disabled veterans within the context of a responsive and a responsible medical program. It focuses on those veterans who are our top priority--the veterans with service-connected disabilities--and for whom the VA medical system was developed.

I believe H.R. 2735 can aid the Administration in

STATEMENT BY THE PRESIDENT

I am pleased to sign into law today H.R. 2735, the Veterans Omnibus Health Care Act of 1976.

H.R. 2735 significantly improves the scope of medical care services available to our Nation's disabled veterans and their families. It expands the medical care available to veterans with 50% or more service-connected disabilities. It also makes available to the families of service-connected veterans a new program of mental health services in order to assure that the disabled veteran and his family can work as a group toward the veteran's rehabilitation and successful recovery. Other provisions of this bill will aid our aging veterans and the veteran population as a whole.

The bill includes an important Administration-sponsored proposal--the one-year extension of the physician and dentist pay bonus to aid VA in the recruitment and retention of skilled medical personnel. Also included are a number of provisions which will assist VA in strengthening and improving the administration of its medical care system.

H.R. 2735 represents a constructive effort by the Congress and the Administration to improve care for disabled veterans within the context of a responsive and a responsible medical program. It focuses on those veterans who are our top priority--the veterans with service-connected disabilities--and for whom the VA medical system was developed.

I believe H.R. 2735 can aid the Administration in continuing to provide high quality medical care for our Nation's veterans, and I am proud, therefore, to approve this bill.