

To provide for the comprehensive management of Disability Benefits earned by the wounded service members in order to provide efficient, accurate and timely delivery of information, benefits and services by the Department of Defense and the Department of Veterans Affairs and for other purposes. Amend title 10 and Title 38, United States Code, to establish a program supporting the Medical Assistance and Disability Rating Systems for members of the Armed Forces who serve in the Armed Forces, and for other purposes.

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SEC. 2. GENERAL DEFINITIONS.

In this Act:

(1) The term `appropriate committees of Congress' means--

(A) the Committees on Armed Services and Veterans' Affairs of the Senate; and

(B) the Committees on Armed Services and Veterans' Affairs of the House of Representatives.

(2) The term `congressional defense committees' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(3) The term `covered member of the Armed Forces' means a member of the Armed Forces, including a member of the National Guard or a Reserve, who is undergoing medical treatment, recuperation, or therapy, is otherwise in medical hold or medical holdover status, or is otherwise on the temporary disability retired list for a serious injury or illness.

(4) The term `family member', with respect to a member of the Armed Forces or a veteran, has the meaning given that term in section 411h(b) of title 37, United States Code.

**TITLE I—IMPLEMENTATION OF CARE, MANAGEMENT, AND
TRANSITION OF DISABLED SERVICE MEMBER**

**SEC. 101. COMPREHENSIVE DELIVERY OF CARE,
MANAGEMENT, AND TRANSITION OF MEMBERS OF THE
ARMED FORCES WITH SERIOUS INJURIES OR ILLNESSES.**

(a) Comprehensive Policy Required-

(1) IN GENERAL- Not later than April 1, 2009, the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent feasible, jointly develop and implement a comprehensive policy on the care and management of members of the Armed Forces who are undergoing medical treatment, recuperation, or therapy, are otherwise in medical hold or medical holdover status, or are otherwise on the temporary disability retired list for a serious injury or illness (hereafter in this section referred to as a "covered service member").

(2) SCOPE OF POLICY- The policy shall cover each of the following:

(A) The care and management of covered service members while in medical hold or medical holdover status or on the temporary disability retired list.

(B) The medical evaluation and disability evaluation of covered service members.

(C) The return of covered service members to active duty when appropriate.

(D) The transition of covered service members from receipt of care and services through the Department of Defense to receipt of care and services through the Department of Veterans Affairs.

(3) CONSULTATION- The Secretary of Defense and the Secretary of Veterans Affairs shall develop the policy in consultation with the heads of other appropriate departments and agencies of the Federal Government and with appropriate non-governmental organizations having an expertise in matters relating to the policy.

(4) UPDATE- The Secretary of Defense and the Secretary of Veterans Affairs shall jointly update the policy on a periodic basis, but not less often than annually, in order to incorporate in the policy, as appropriate, the results of the reviews under subsections (b) and (c) and the best practices identified through pilot programs under section 304.

(b) Review of Current Policies and Procedures-

(1) REVIEW REQUIRED- In developing the policy required by this section, the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent necessary, jointly and separately conduct a review of all policies and procedures of the Department of Defense and the Department of Veterans Affairs that apply to, or shall be covered by, the policy.

(2) PURPOSE- The purpose of the review shall be to identify the most effective and patient-oriented approaches to care and management of covered service members for purposes of--

(A) incorporating such approaches into the policy; and

(B) extending such approaches, where applicable, to care and management of other injured or ill members of the Armed Forces and veterans.

(3) ELEMENTS- In conducting the review, the Secretary of Defense and the Secretary of Veterans Affairs shall--

(A) Uniform standards for access of covered service members to non-urgent health care services from the Department of Defense or other providers under the TRICARE program, with such access to be--

(i) for follow-up care, within 2 days of request of care;

(ii) for specialty care, within 3 days of request of care;

(iii) for diagnostic referrals and studies, within 5 days of request; and

(iv) for surgery based on a physician's determination of medical necessity, within 14 days of request.

(B) Requirements for the assignment of adequate numbers of personnel for the purpose of responsibility for and administration of covered service members in medical hold or medical holdover status or on the temporary disability retired list.

(C) Requirements for the assignment of adequate numbers of medical personnel and non-medical personnel to roles and responsibilities for caring for and administering covered service members in medical hold or medical holdover status or on the temporary disability retired list, and a description of the roles and responsibilities of personnel so assigned.

(D) Guidelines for the location of care for covered service members in medical hold or medical holdover status or on the temporary disability retired list, which guidelines shall address the assignment of such service members to care and residential facilities closest to their duty station or home of record or the location of their designated caregiver at the earliest possible time.

(E) Criteria for work and duty assignments of covered service members in medical hold or medical holdover status or on the temporary disability retired list, including a prohibition on the assignment of duty to a service member which is incompatible with the service member's medical condition.

(F) Guidelines for the provision of care and counseling for eligible family members of covered service members in medical hold or medical holdover status or on the temporary disability retired list.

(G) Requirements for case management of covered service members in medical hold or medical holdover status or on the temporary disability retired list, including qualifications for personnel providing such case management.

(H) Requirements for uniform quality of care and administration for all covered service members in medical hold or medical holdover status or on the temporary disability retired list, whether members of the regular components of the Armed Forces or members of the reserve components of the Armed Forces.

(I) Standards for the conditions and accessibility of residential facilities for covered service members in medical hold or medical holdover status or on the temporary disability retired list who are in outpatient status, and for their immediate family members.

(J) Requirements on the provision of transportation and subsistence for covered service members in medical hold or medical holdover status or on the temporary disability retired list, whether in inpatient status or outpatient status, to facilitate obtaining needed medical care and services.

(K) Requirements on the provision of educational and vocational training and rehabilitation opportunities for covered service members

in medical hold or medical holdover status or on the temporary disability retired list.

(L) Procedures for tracking and informing covered service members in medical hold or medical holdover status or on the temporary disability retired list about medical evaluation board and physical disability evaluation board processing.

(M) Requirements for integrated case management of covered service members in medical hold or medical holdover status or on the temporary disability retired list during their transition from care and treatment through the Department of Defense to care and treatment through the Department of Veterans Affairs.

(N) Requirements and standards for advising and training, as appropriate, family members with respect to care for covered service members in medical hold or medical holdover status or on the temporary disability retired list with serious medical conditions, particularly traumatic brain injury (TBI), burns, and post-traumatic stress disorder (PTSD).

(O) Requirements for periodic reassessments of covered service members, and limits on the length of time such service members may be retained in medical hold or medical holdover status or on the temporary disability retired list.

(P) Requirements to inform covered service members and their family members of their rights and responsibilities while in medical hold or medical holdover status or on the temporary disability retired list.

(Q) The requirement to establish a Department of Defense-wide Ombudsman Office within the Office of the Secretary of Defense to provide oversight of the ombudsman offices in the military departments and policy guidance to such offices with respect to providing assistance to, and answering questions from, covered service members and their families.

(2) MEDICAL EVALUATION AND PHYSICAL DISABILITY EVALUATION FOR COVERED SERVICE MEMBER -

(A) MEDICAL EVALUATIONS- Processes, procedures, and standards for medical evaluations of covered service members, including the following:

(i) Processes for medical evaluations of covered service members that are--

(I) applicable uniformly throughout the military departments; and

(II) applicable uniformly with respect to such service members who are members of the regular components of the Armed Forces and such service members who are members of the National Guard and Reserve.

(ii) Standard criteria and definitions for determining the achievement for covered service members of the maximum medical benefit from treatment and rehabilitation.

(iii) Standard timelines for each of the following:

(I) Determinations of fitness for duty of covered service member .

(II) Specialty consultations for covered service member .

(III) Preparation of medical documents for covered service member .

(IV) Appeals by covered service members of medical evaluation determinations, including determinations of fitness for duty.

(iv) Uniform standards for qualifications and training of medical evaluation board personnel, including physicians, case workers, and physical disability evaluation board liaison officers, in conducting medical evaluations of covered service member .

(v) Standards for the maximum number of medical evaluation cases of covered service members that are pending before a medical evaluation board at any one time, and requirements for the establishment of additional medical evaluation boards in the event such number is exceeded.

(vi) Uniform standards for information for covered service members, and their families, on the medical evaluation board process and the rights and responsibilities of such service members under that process, including a standard handbook on such information.

(B) PHYSICAL DISABILITY EVALUATIONS- Processes, procedures, and standards for physical disability evaluations of covered service member , including the following:

(i) A non-adversarial process of the Department of Defense and the Department of Veterans Affairs for disability determinations of covered service members .

(ii) To the extent feasible, procedures to eliminate unacceptable discrepancies among disability ratings assigned by the military departments and the Department of Veterans Affairs, particularly in the disability evaluation of covered service member , which procedures shall be subject to the following requirements and limitations:

(I) Such procedures shall apply uniformly with respect to covered service members who are members of the regular components of the Armed Forces and covered service members who are members of the National Guard and Reserve.

(II) Under such procedures, each Secretary of a military department shall, to the extent feasible, utilize the standard schedule for rating disabilities in use by the Department of Veterans Affairs, including any applicable interpretation of such schedule by the United States Court of Appeals for Veterans Claims, in making any determination of disability of a covered service member

(iii) Standard timelines for appeals of determinations of disability of covered service member , including timelines for presentation, consideration, and disposition of appeals.

(iv) Uniform standards for qualifications and training of physical disability evaluation board personnel in conducting physical disability evaluations of covered service member .

(v) Standards for the maximum number of physical disability evaluation cases of covered service members that are pending before a physical disability evaluation board at any one time, and requirements for the establishment of additional physical

disability evaluation boards in the event such number is exceeded.

(vi) Procedures for the provision of legal counsel to covered service members while undergoing evaluation by a physical disability evaluation board.

(vii) Uniform standards on the roles and responsibilities of case managers, service member advocates, and judge advocates assigned to covered service members undergoing evaluation by a physical disability board, and uniform standards on the maximum number of cases involving such service members that are to be assigned to such managers and advocates.

(C) RETURN OF COVERED service members TO ACTIVE DUTY- Standards for determinations by the military departments on the return of covered service members to active duty in the Armed Forces.

(D) TRANSITION OF COVERED service members FROM DOD TO VA- Processes, procedures, and standards for the transition of covered service members from care and treatment by the Department of Defense to care and treatment by the Department of Veterans Affairs before, during, and after separation from the Armed Forces, including the following:

(i) A uniform, patient-focused policy to ensure that the transition occurs without gaps in medical care and the quality of medical care, benefits, and services.

(ii) Procedures for the identification and tracking of covered service members during the transition, and for the coordination of care and treatment of such service members during the transition, including a system of cooperative case management of such service members by the Department of Defense and the Department of Veterans Affairs during the transition.

(iii) Procedures for the notification of Department of Veterans Affairs liaison personnel of the commencement by covered service members of the medical evaluation process and the physical disability evaluation process.

(iv) Procedures and timelines for the enrollment of covered service members in applicable enrollment or application systems of the Department of Veterans with respect to health care, disability, education, vocational rehabilitation, or other benefits.

(v) Procedures to ensure the access of covered service members during the transition to vocational, educational, and rehabilitation benefits available through the Department of Veterans Affairs.

(vi) Standards for the optimal location of Department of Defense and Department of Veterans Affairs liaison and case management personnel at military medical treatment facilities, medical centers, and other medical facilities of the Department of Defense.

(vii) Standards and procedures for integrated medical care and management for covered service members during the transition, including procedures for the assignment of medical personnel of the Department of Veterans Affairs to Department of Defense facilities to participate in the needs assessments of

such service members before, during, and after their separation from military service.

(viii) Standards for the preparation of detailed plans for the transition of covered service members from care and treatment by the Department of Defense to care and treatment by the Department of Veterans Affairs, which plans shall be based on standardized elements with respect to care and treatment requirements and other applicable requirements.

(E) OTHER MATTERS- The following additional matters with respect to covered service member :

(i) Access by the Department of Veterans Affairs to the military health records of covered service members who are receiving care and treatment, or are anticipating receipt of care and treatment, in Department of Veterans Affairs health care facilities.

(ii) Requirements for utilizing, in appropriate cases, a single physical examination that meets requirements of both the Department of Defense and the Department of Veterans Affairs for covered service members who are being retired, separated, or released from military service.

(iii) Surveys and other mechanisms to measure patient and family satisfaction with the provision by the Department of Defense and the Department of Veterans Affairs of care and services for covered service member , and to facilitate appropriate oversight by supervisory personnel of the provision of such care and services.

(e) Reports-

(1) REPORT ON POLICY- Upon the development of the policy required by this section but not later than January 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the policy, including a comprehensive and detailed description of the policy and of the manner in which the policy addresses the findings and recommendations of the reviews under subsections (b) and (c).

(2) REPORTS ON UPDATE- Upon updating the policy under subsection (a)(4), the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the update of the policy, including a comprehensive and detailed description of such update and of the reasons for such update.

(f) Comptroller General Assessment of Implementation- Not later than six months after the date of the enactment of this Act and every year thereafter, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report setting forth the assessment of the Comptroller General of the progress of the Secretary of Defense and the Secretary of Veterans Affairs in developing and implementing the policy required by this section.

SEC. 102. BENEFITS DELIVERY AT DISCHARGE

(a) Program To Maximize Participation- Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly implement a Program to maximize access to the benefits delivery at discharge program for all members of the Armed Forces regardless of branch, component or station who have been called or ordered to active duty at any time since September 11, 2001.

(b) Contents- The program under subsection (a) shall include a description of efforts to ensure that services under the benefits delivery at discharge program are provided, to the maximum extent practicable--

(1) at each military installation;

(2) at each armory and military family support center of the National Guard;

(3) at each military medical care facility at which members of the Armed Forces are separated or discharged from the Armed Forces; and

(4) in the case of a member on the temporary disability retired list under section 1202 or 1205 of title 10, United States Code, who is being retired under another provision of such title or is being discharged, at a location reasonably convenient to the member.

(c) Benefits Delivery at Discharge Program Defined- In this section, the term `benefits delivery at discharge program' means a program administered jointly by the Secretary of Defense and the Secretary of Veterans Affairs to provide information and assistance on available benefits and other transition assistance to members of the Armed Forces who are separating from the Armed Forces, including assistance to obtain any disability benefits for such members may be eligible.

SEC. 103. PUTTING VETERANS FIRST

a) Program for Veterans Affairs, VETERANS FIRST- For fiscal year 2009, no bonus described in subsection (b) may be paid to any officer of the Department of Veterans Affairs who is appointed by the President, by and with the consent of the Senate, or who is a senior politically appointed officer unless, at the time such payment is made, fewer than 100,000 claims for disability compensation under chapter 11 of title 38, United States Code, are pending before the Department.

(b) Bonuses Described- A bonus described in this subsection is any of the following:

(1) A performance award under section 5384 of title 5, United States Code.

(2) A performance-based cash award under section 4505a of such title.

(c) Definition of Senior Politically Appointed Officer- For purposes of this section, the term `senior politically appointed officer' means any officer who serves--

(1) as an Assistant Secretary;

(2) as a Deputy Under Secretary;

(3) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4) of title 5, United States Code; or

(4) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(d) *Comptroller General Reports-* For any fiscal quarter of fiscal year 2007 during which the percentage of claims for disability compensation processed by the Department of Veterans Affairs that are disallowed exceeds the percentage that is 10 percent higher than the percentage of such claims that were disallowed during fiscal year 2006, the Comptroller General shall conduct an audit of the Department's processing of such claims to determine the reason for the increase in the percentage of disallowed claims and, not later than 30 days after the last day of that fiscal quarter, shall submit to Congress the results of such audit.

TITLE II--HEALTH CARE

Subtitle A--Enhanced Availability of Care for service member

SEC. 201. MEDICAL CARE AND OTHER BENEFITS FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WITH SEVERE INJURIES OR ILLNESSES.

(a) *Medical and Dental Care for Members and Former Members-*

(1) *IN GENERAL-* Effective as of the date of the enactment of this Act and subject to regulations prescribed by the Secretary of Defense, any covered member of the Armed Forces, and any former member of the Armed Forces, with a severe injury or illness is entitled to medical and dental care in any facility of the uniformed services under section 1074(a) of title 10, United States Code, or through any civilian health care provider authorized by the Secretary to provide health and mental health services to members of the uniformed services, including traumatic brain injury (TBI) and post-traumatic stress disorder (PTSD), as if such member or former member were a member of the uniformed services described in paragraph (2) of such section who is entitled to medical and dental care under such section.

(2) *PERIOD OF AUTHORIZED CARE-* (A) Except as provided in subparagraph (B), a member or former member described in paragraph (1) is entitled to care under that paragraph--

(i) in the case of a member or former member whose severe injury or illness concerned is incurred or aggravated during the period beginning on October 7, 2001, and ending on the date of the enactment of this Act, during the three-year period beginning on the date of the enactment of this Act, except that no compensation is payable by reason of this subsection for any period before the date of the enactment of this Act; or

(ii) in the case of a member or former member whose severe injury or illness concerned is incurred or aggravated on or after the date of the enactment of this Act, during the three-year period beginning on the date on which such injury or illness is so incurred or aggravated.

(B) The period of care authorized for a member or former member under this paragraph may be extended by the Secretary concerned for an additional period of up to two years if the Secretary concerned determines that such

extension is necessary to assure the maximum feasible recovery and rehabilitation of the member or former member. Any such determination shall be made on a case-by-case basis.

(3) INTEGRATED CARE MANAGEMENT- The Secretary of Defense shall provide for a program of integrated care management in the provision of care and services under this subsection, which management shall be provided by appropriate medical and case management personnel of the Department of Defense and the Department of Veterans Affairs (as approved by the Secretary of Veterans Affairs) and with appropriate support from the Department of Defense regional health care support contractors.

(4) WAIVER OF LIMITATIONS TO MAXIMIZE CARE- The Secretary of Defense may, in providing medical and dental care to a member or former member under this subsection during the period referred to in paragraph (2), waive any limitation otherwise applicable under chapter 55 of title 10, United States Code, to the provision of such care to the member or former member if the Secretary considers the waiver appropriate to assure the maximum feasible recovery and rehabilitation of the member or former member.

(5) CONSTRUCTION WITH ELIGIBILITY FOR VETERANS BENEFITS- Nothing in this subsection shall be construed to reduce, alter, or otherwise affect the eligibility or entitlement of a member or former member of the Armed Forces to any health care, disability, or other benefits to which the member or former member would otherwise be eligible or entitled as a veteran under the laws administered by the Secretary of Veterans Affairs.

(6) SUNSET- The Secretary of Defense may not provide medical or dental care to a member or former member of the Armed Forces under this subsection after December 31, 2012, if the Secretary has not provided medical or dental care to the member or former member under this subsection before that date.

(b) Rehabilitation and Vocational Benefits-

(1) IN GENERAL- Effective as of the date of the enactment of this Act, a member of the Armed Forces with a severe injury or illness is entitled to such benefits (including rehabilitation and vocational benefits, but not including compensation) from the Secretary of Veterans Affairs to facilitate the recovery and rehabilitation of such member as the Secretary otherwise provides to members of the Armed Forces receiving medical care in medical facilities of the Department of Veterans Affairs facilities in order to facilitate the recovery and rehabilitation of such members.

(2) LIMITATIONS- The provisions of paragraphs (2) through (6) of subsection (a) shall apply to the provision of benefits under this subsection as if the benefits provided under this subsection were provided under subsection (a).

(3) REIMBURSEMENT- The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for the cost of any benefits provided under this subsection in accordance with applicable mechanisms for the reimbursement of the Secretary of Veterans Affairs for the provision of medical care to members of the Armed Forces.

(c) Recovery of Certain Expenses of Medical Care and Related Travel-

(1) IN GENERAL- Commencing not later than 60 days after the date of the enactment of this Act, the Secretary of the military department concerned may reimburse covered members of the Armed Forces, and former members of the Armed Forces, with a severe injury or illness for covered expenses incurred by such members or former members, or their family members, in connection with the receipt by such members or former members of medical care that is required for such injury or illness.

(2) *COVERED EXPENSES*- Expenses for which reimbursement may be made under paragraph (1) include the following:

(A) Expenses for health care services for which coverage would be provided under section 1074(c) of title 10, United States Code, for members of the uniformed services on active duty.

(B) Expenses of travel of a non-medical attendant who accompanies a member or former member of the Armed Forces for required medical care that is not available to such member or former member locally, if such attendant is appointed for that purpose by a competent medical authority (as determined under regulations prescribed by the Secretary of Defense for purposes of this subsection).

(C) Such other expenses for medical care as the Secretary may prescribe for purposes of this subsection.

(3) *AMOUNT OF REIMBURSEMENT*- The amount of reimbursement under paragraph (1) for expenses covered by paragraph (2) shall be determined in accordance with regulations prescribed by the Secretary of Defense for purposes of this subsection.

(d) *Severe Injury or Illness Defined*- In this section, the term 'severe injury or illness' means any serious injury or illness that is assigned a disability rating of 30 percent or higher under the schedule for rating disabilities in use by the Department of Defense.

Subtitle B--Care and Services for Dependents

SEC. 211. MEDICAL CARE AND SERVICES AND SUPPORT SERVICES FOR FAMILIES OF MEMBERS OF THE ARMED FORCES RECOVERING FROM SERIOUS INJURIES OR ILLNESSES.

(a) *Medical Care*-

(1) *IN GENERAL*- A family member of a covered member of the Armed Forces who is not otherwise eligible for medical care at a military medical treatment facility or at medical facilities of the Department of Veterans Affairs shall be eligible for such care at such facilities, on a space-available basis, if the family member is--

(A) on invitational orders while caring for the covered member of the Armed Forces;

(B) a non-medical attendee caring for the covered member of the Armed Forces; or

(C) receiving per diem payments from the Department of Defense while caring for the covered member of the Armed Forces.

(2) *SPECIFICATION OF FAMILY MEMBERS*- Notwithstanding section 2(4), the Secretary of Defense and the Secretary of Veterans Affairs shall jointly prescribe in regulations the family members of covered members of the Armed Forces who shall be considered to be a family member of a covered member of the Armed Forces for purposes of paragraph (1).

(3) *SPECIFICATION OF CARE*- (A) The Secretary of Defense shall prescribe in regulations the medical care and counseling that shall be available to family members under paragraph (1) at military medical treatment facilities.

(B) The Secretary of Veterans Affairs shall prescribe in regulations the medical care and counseling that shall be available to family members under paragraph (1) at medical facilities of the Department of Veterans Affairs.

(4) *RECOVERY OF COSTS-* The United States may recover the costs of the provision of medical care and counseling under paragraph (1) as follows (as applicable):

(A) From third-party payers, in the same manner as the United States may collect costs of the charges of health care provided to covered beneficiaries from third-party payers under section 1095 of title 10, United States Code.

(B) As if such care and counseling was provided under the authority of section 1784 of title 38, United States Code.

(b) *Job Placement Services-* A family member who is on invitational orders or is a non-medical attendee while caring for a covered member of the Armed Forces for more than 45 days during a one-year period shall be eligible for job placement services otherwise offered by the Department of Defense.

(c) *Report on Need for Additional Services-* Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the assessment of the Secretary of the need for additional employment services, and of the need for employment protection, of family members described in subsection (b) who are placed on leave from employment or otherwise displaced from employment while caring for a covered member of the Armed Forces as described in that subsection.

Subtitle C--Traumatic Brain Injury and Post-Traumatic Stress Disorder

SEC. 221. COMPREHENSIVE PROGRAM ON PREVENTION, DIAGNOSIS, MITIGATION, AND TREATMENT OF TRAUMATIC BRAIN INJURY AND POST-TRAUMATIC STRESS DISORDER IN MEMBERS OF THE ARMED FORCES.

(a) *Plans Required-* Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, submit to the congressional defense committees one or more comprehensive plans for programs and activities of the Department of Defense to prevent, diagnose, mitigate, treat, and otherwise respond to traumatic brain injury (TBI) and post-traumatic stress disorder (PTSD) in members of the Armed Forces.

(b) *Elements-* Each plan submitted under subsection (a) shall include comprehensive proposals of the Department on the following:

(1) The designation by the Secretary of Defense of a lead agent or executive agent for the Department to coordinate development and implementation of the plan.

(2) The improvement of personnel protective equipment for members of the Armed Forces in order to prevent traumatic brain injury.

(3) The improvement of methods and mechanisms for the detection and treatment of traumatic brain injury and post-traumatic stress disorder in members of the Armed Forces in the field.

(4) The requirements for research on traumatic brain injury and post-traumatic stress disorder, including (in particular) research on pharmacological approaches to treatment for traumatic brain injury or post-traumatic stress disorder, as applicable, and the allocation of priorities among such research.

(5) The development, adoption, and deployment of diagnostic criteria for the detection and evaluation of the range of traumatic brain injury and post-

traumatic stress disorder in members of the Armed Forces, which criteria shall be employed uniformly across the military departments in all applicable circumstances, including provision of clinical care and assessment of future deployments of members of the Armed Forces.

(6) The development and deployment of effective means of assessing traumatic brain injury and post-traumatic stress disorder in members of the Armed Forces, including a system of pre-deployment and post-deployment screenings of cognitive ability in members for the detection of cognitive impairment, as required by the amendments made by section 222.

(7) The development and deployment of effective means of managing and monitoring members of the Armed Forces with traumatic brain injury or post-traumatic stress disorder in the receipt of care for traumatic brain injury or post-traumatic stress disorder, as applicable, including the monitoring and assessment of treatment and outcomes.

(8) The development and deployment of an education and awareness training initiative designed to reduce the negative stigma associated with traumatic brain injury, post-traumatic stress disorder, and mental health treatment.

(9) The provision of education and outreach to families of members of the Armed Forces with traumatic brain injury or post-traumatic stress disorder on a range of matters relating to traumatic brain injury or post-traumatic stress disorder, as applicable, including detection, mitigation, and treatment.

(10) The assessment of the current capabilities of the Department for the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury and post-traumatic stress disorder in members of the Armed Forces.

(11) The identification of gaps in current capabilities of the Department for the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury and post-traumatic stress disorder in members of the Armed Forces.

(12) The identification of the resources required for the Department in fiscal years 2009 thru 2013 to address the gaps in capabilities identified under paragraph (11).

(13) The development of joint planning among the Department of Defense, the military departments, and the Department of Veterans Affairs for the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury and post-traumatic stress disorder in members of the Armed Forces, including planning for the seamless transition of such members from care through the Department of Defense care through the Department of Veterans Affairs.

(14) A requirement that exposure to a blast or blasts be recorded in the records of members of the Armed Forces.

(15) The development of clinical practice guidelines for the diagnosis and treatment of blast injuries in members of the Armed Forces, including, but not limited to, traumatic brain injury.

(c) Coordination in Development- Each plan submitted under subsection (a) shall be developed in coordination with the Secretary of the Army (who was designated by the Secretary of Defense as executive agent for the prevention, mitigation, and treatment of blast injuries under section 256 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3181; 10 U.S.C. 1071 note)).

(d) Additional Activities- In carrying out programs and activities for the prevention, diagnosis, mitigation, and treatment of traumatic brain injury and post-traumatic stress disorder in members of the Armed Forces, the Secretary of Defense shall--

- (1) examine the results of the recently completed Phase 2 study, funded by the National Institutes of Health, on the use of progesterone for acute traumatic brain injury;
- (2) determine if Department of Defense funding for a Phase 3 clinical trial on the use of progesterone for acute traumatic brain injury, or for further research regarding the use of progesterone or its metabolites for treatment of traumatic brain injury, is warranted; and
- (3) provide for the collaboration of the Department of Defense, as appropriate, in clinical trials and research on pharmacological approaches to treatment for traumatic brain injury and post-traumatic stress disorder that is conducted by other departments and agencies of the Federal Government.

SEC. 222. IMPROVEMENT OF MEDICAL TRACKING SYSTEM FOR MEMBERS OF THE ARMED FORCES DEPLOYED OVERSEAS.

- (a) Protocol for Assessment of Cognitive Functioning-
 - (1) PROTOCOL REQUIRED- Subsection (b) of section 1074f of title 10, United States Code, is amended--
 - (A) in paragraph (2), by adding at the end the following new subparagraph:
` (C) An assessment of post-traumatic stress disorder.'; and
 - (B) by adding at the end the following new paragraph:
` (3)(A) The Secretary shall establish for purposes of subparagraphs (B) and (C) of paragraph (2) a protocol for the pre-deployment assessment and documentation of the cognitive (including memory) functioning of a member who is deployed outside the United States in order to facilitate the assessment of the post-deployment cognitive (including memory) functioning of the member.
` (B) The protocol under subparagraph (A) shall include appropriate mechanisms to permit the differential diagnosis of traumatic brain injury in members returning from deployment in a combat zone.'.
 - (2) PILOT PROJECTS- (A) In developing the protocol required by paragraph (3) of section 1074f(b) of title 10, United States Code (as amended by paragraph (1) of this subsection), for purposes of assessments for traumatic brain injury, the Secretary of Defense shall conduct up to three pilot projects to evaluate various mechanisms for use in the protocol for such purposes. One of the mechanisms to be so evaluated shall be a computer-based assessment tool.
(B) Not later than 60 days after the completion of the pilot projects conducted under this paragraph, the Secretary shall submit to the appropriate committees of Congress a report on the pilot projects. The report shall include--
 - (i) a description of the pilot projects so conducted;
 - (ii) an assessment of the results of each such pilot project; and
 - (iii) a description of any mechanisms evaluated under each such pilot project that will be incorporated into the protocol.
 - (C) Not later than 180 days after completion of the pilot projects conducted under this paragraph, the Secretary shall establish a mechanism for implementing any mechanism evaluated under such a pilot project that is selected for incorporation in the protocol.
 - (D) There is hereby authorized to be appropriated to the Department of Defense, \$3,000,000 for the pilot projects authorized by this paragraph. Of the amount so authorized to be appropriated, not more than \$1,000,000 shall be available for any particular pilot project.

(b) *Quality Assurance-* Subsection (d)(2) of section 1074f of title 10, United States Code, is amended by adding at the end the following new subparagraph:

`(F) The diagnosis and treatment of traumatic brain injury and post-traumatic stress disorder.'

(c) *Standards for Deployment-* Subsection (f) of such section is amended--

(1) *in the subsection heading, by striking `Mental Health'; and*

(2) *in paragraph (2)(B), by striking `or' and inserting `, traumatic brain injury, or'.*

SEC. 225. FUNDING FOR IMPROVED DIAGNOSIS, TREATMENT, AND REHABILITATION OF MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY OR POST-TRAUMATIC STRESS DISORDER.

(a) *Authorization of Appropriations-*

(1) *IN GENERAL-* Funds are hereby authorized to be appropriated for fiscal year 2008 for the Department of Defense for Defense Health Program in the amount of \$50,000,000, with such amount to be available for activities as follows:

(A) *Activities relating to the improved diagnosis, treatment, and rehabilitation of members of the Armed Forces with traumatic brain injury (TBI).*

(B) *Activities relating to the improved diagnosis, treatment, and rehabilitation of members of the Armed Forces with post-traumatic stress disorder (PTSD).*

(2) *AVAILABILITY OF AMOUNT-* Of the amount authorized to be appropriated by paragraph (1), \$17,000,000 shall be available for the Defense and Veterans Brain Injury Center of the Department of Defense.

(b) *Supplement Not Supplant-* The amount authorized to be appropriated by subsection (a) for Defense Health Program is in addition to any other amounts authorized to be appropriated by this Act for Defense Health Program.

SEC. 226. REPORTS.

(a) *Reports on Implementation of Certain Requirements-* Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing the progress in implementing the requirements as follows:

(1) *The requirements of section 721 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2294), relating to a longitudinal study on traumatic brain injury incurred by members of the Armed Forces in Operation Iraqi Freedom and Operation Enduring Freedom.*

(2) *The requirements arising from the amendments made by section 738 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (120 Stat. 2303), relating to enhanced mental health screening and services for members of the Armed Forces.*

(3) *The requirements of section 741 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (120 Stat. 2304), relating to pilot projects on early diagnosis and treatment of post-traumatic stress disorder and other mental health conditions.*

(b) *Annual Reports on Expenditures for Activities on Tbi and Ptsd-*

(1) *REPORTS REQUIRED-* Not later than March 1, 2008, and each year thereafter through 2013, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the amounts expended by the Department of Defense during the preceding calendar year on activities described in paragraph (2), including the amount allocated during such calendar year to the Defense and Veterans Brain Injury Center of the Department.

(2) *COVERED ACTIVITIES-* The activities described in this paragraph are activities as follows:

(A) *Activities relating to the improved diagnosis, treatment, and rehabilitation of members of the Armed Forces with traumatic brain injury (TBI).*

(B) *Activities relating to the improved diagnosis, treatment, and rehabilitation of members of the Armed Forces with post-traumatic stress disorder (PTSD).*

(3) *ELEMENTS-* Each report under paragraph (1) shall include--

(A) *a description of the amounts expended as described in that paragraph, including a description of the activities for which expended;*

(B) *a description and assessment of the outcome of such activities;*

(C) *a statement of priorities of the Department in activities relating to the prevention, diagnosis, research, treatment, and rehabilitation of traumatic brain injury in members of the Armed Forces during the year in which such report is submitted and in future calendar years;*

(D) *a statement of priorities of the Department in activities relating to the prevention, diagnosis, research, treatment, and rehabilitation of post-traumatic stress disorder in members of the Armed Forces during the year in which such report is submitted and in future calendar years; and*

(E) *an assessment of the progress made toward achieving the priorities stated in subparagraphs (C) and (D) in the report under paragraph (1) in the previous year, and a description of any actions planned during the year in which such report is submitted to achieve any unfulfilled priorities during such year.*

Subtitle D--Other Matters

SEC. 231. JOINT ELECTRONIC HEALTH RECORD FOR THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS.

(a) *In General-* The Secretary of Defense and the Secretary of Veterans Affairs shall jointly--

(1) *develop and implement a joint electronic health record for use by the Department of Defense and the Department of Veterans Affairs; and*

(2) *accelerate the exchange of health care information between the Department of Defense and the Department of Veterans Affairs in order to support the delivery of health care by both Departments.*

(b) *Department of Defense-Department of Veterans Affairs Interagency Program Office for a Joint Electronic Health Record-*

(1) *IN GENERAL-* There is hereby established a joint element of the Department of Defense and the Department of Veterans Affairs to be known as the Department of Defense-Department of Veterans Affairs Interagency

Program Office for a Joint Electronic Health Record' (in this section referred to as the 'Office').

(2) *PURPOSES-* The purposes of the Office shall be as follows:

(A) To act as a single point of accountability for the Department of Defense and the Department of Veterans Affairs in the rapid development, test, and implementation of a joint electronic health record for use by the Department of Defense and the Department of Veterans Affairs.

(B) To accelerate the exchange of health care information between Department of Defense and the Department of Veterans Affairs in order to support the delivery of health care by both Departments.

(c) *Leadership-*

(1) *DIRECTOR-* The Director of the Department of Defense-Department of Veterans Affairs Interagency Program Office for a Joint Electronic Health Record shall be the head of the Office.

(2) *DEPUTY DIRECTOR-* The Deputy Director of the Department of Defense-Department of Veterans Affairs Interagency Program Office for a Joint Electronic Health Record shall be the deputy head of the office and shall assist the Director in carrying out the duties of the Director.

(3) *APPOINTMENTS-* (A) The Director shall be appointed by the Secretary of Defense, with the concurrence of the Secretary of Veterans Affairs, from among employees of the Department of Defense and the Department of Veterans Affairs in the Senior Executive Service who are qualified to direct the development and acquisition of major information technology capabilities.

(B) The Deputy Director shall be appointed by the Secretary of Veterans Affairs, with the concurrence of the Secretary of Defense, from among employees of the Department of Defense and the Department of Veterans Affairs in the Senior Executive Service who are qualified to direct the development and acquisition of major information technology capabilities.

(4) *ADDITIONAL GUIDANCE-* In addition to the direction, supervision, and control provided by the Secretary of Defense and the Secretary of Veterans Affairs, the Office shall also receive guidance from the Department of Veterans Affairs-Department of Defense Joint Executive Committee under section 320 of title 38, United States Code, in the discharge of the functions of the Office under this section.

(5) *TESTIMONY-* Upon request by any of the appropriate committees of Congress, the Director and the Deputy Director shall testify before such committee regarding the discharge of the functions of the Office under this section.

(d) *Function-* The function of the Office shall be to develop and prepare for deployment, by not later than September 30, 2010, a joint electronic health record to be utilized by both the Department of Defense and the Department of Veterans Affairs in the provision of medical care and treatment to members of the Armed Forces and veterans, which health record shall comply with applicable interoperability standards, implementation specifications, and certification criteria (including for the reporting of quality measures) of the Federal Government.

(e) *Schedules and Benchmarks-* Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly establish a schedule and benchmarks for the discharge by the Office of its function under this section, including each of the following:

(1) A schedule for the establishment of the Office.

(2) A schedule and deadline for the establishment of the requirements for the joint electronic health record described in subsection (d), including

coordination with the Office of the National Coordinator for Health Information Technology in the development of a nationwide interoperable health information technology infrastructure.

(3) A schedule and associated deadlines for any acquisition and testing required in the development and deployment of the joint electronic health record.

(4) A schedule and associated deadlines and requirements for the deployment of the joint electronic health record.

(5) Proposed funding for the Office for each of fiscal years 2009 through 2013 for the discharge of its function.

(f) Pilot Projects-

(1) AUTHORITY- In order to assist the Office in the discharge of its function under this section, the Secretary of Defense and the Secretary of Veterans Affairs may, acting jointly, carry out one or more pilot projects to assess the feasibility and advisability of various technological approaches to the achievement of the joint electronic health record described in subsection (d).

(2) TREATMENT AS SINGLE HEALTH CARE SYSTEM- For purposes of each pilot project carried out under this subsection, the health care system of the Department of Defense and the health care system of the Department of Veterans Affairs shall be treated as a single health care system for purposes of the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(g) Staff and Other Resources-

(1) IN GENERAL- The Secretary of Defense and the Secretary of Veterans Affairs shall assign to the Office such personnel and other resources of the Department of Defense and the Department of Veterans Affairs as are required for the discharge of its function under this section.

(2) ADDITIONAL SERVICES- Subject to the approval of the Secretary of Defense and the Secretary of Veterans Affairs, the Director may utilize the services of private individuals and entities as consultants to the Office in the discharge of its function under this section. Amounts available to the Office shall be available for payment for such services.

(h) Annual Reports-

(1) IN GENERAL- Not later than January 1, 2009, and each year thereafter through 2014, the Director shall submit to the Secretary of Defense and the Secretary of Veterans Affairs, and to the appropriate committees of Congress, a report on the activities of the Office during the preceding calendar year.

Each report shall include, for the year covered by such report, the following:

(A) A detailed description of the activities of the Office, including a detailed description of the amounts expended and the purposes for which expended.

(B) An assessment of the progress made by the Department of Defense and the Department of Veterans Affairs in the development and implementation of the joint electronic health record described in subsection (d).

(2) AVAILABILITY TO PUBLIC- The Secretary of Defense and the Secretary of Veterans Affairs shall make available to the public each report submitted under paragraph (1), including by posting such report on the Internet website of the Department of Defense and the Department of Veterans Affairs, respectively, that is available to the public.

(i) Comptroller General Assessment of Implementation- Not later than six months after the date of the enactment of this Act and every six months thereafter until the completion of the implementation of the joint electronic health record described in

subsection (d), the Comptroller General of the United States shall submit to the appropriate committees of Congress a report setting forth the assessment of the Comptroller General of the progress of the Department of Defense and the Department of Veterans Affairs in developing and implementing the joint electronic health record.

(j) Funding-

(1) IN GENERAL- The Secretary of Defense and the Secretary of Veterans Affairs shall each contribute equally to the costs of the Office in fiscal year 2008 and fiscal years thereafter. The amount so contributed by each Secretary in fiscal year 2008 shall be up to \$10,000,000.

(2) SOURCE OF FUNDS- (A) Amounts contributed by the Secretary of Defense under paragraph (1) shall be derived from amounts authorized to be appropriated for the Department of Defense for the Defense Health Program and available for program management and technology resources.

(B) Amounts contributed by the Secretary of Veterans Affairs under paragraph (1) shall be derived from amounts authorized to be appropriated for the Department of Veterans Affairs for Medical Care and available for program management and technology resources.

(k) Joint Electronic Health Record Defined- In this section, the term 'joint electronic health record' means a single system that includes patient information across the continuum of medical care, including inpatient care, outpatient care, pharmacy care, patient safety, and rehabilitative care.

SEC. 232. ENHANCED PERSONNEL AUTHORITIES FOR THE DEPARTMENT OF DEFENSE FOR HEALTH CARE PROFESSIONALS FOR CARE AND TREATMENT OF WOUNDED AND INJURED MEMBERS OF THE ARMED FORCES.

(a) In General- Section 1599c of title 10, United States Code, is amended to read as follows:

` Sec. 1599c. Health care professionals: enhanced appointment and compensation authority for personnel for care and treatment of wounded and injured members of the armed forces

` (a) In General- The Secretary of Defense may, in the discretion of the Secretary, exercise any authority for the appointment and pay of health care personnel under chapter 74 of title 38 for purposes of the recruitment, employment, and retention of civilian health care professionals for the Department of Defense if the Secretary determines that the exercise of such authority is necessary in order to provide or enhance the capacity of the Department to provide care and treatment for members of the armed forces who are wounded or injured on active duty in the armed forces and to support the ongoing patient care and medical readiness, education, and training requirements of the Department of Defense.

` (b) Recruitment of Personnel- (1) The Secretaries of the military departments shall each develop and implement a strategy to disseminate among appropriate personnel of the military departments authorities and best practices for the recruitment of medical and health professionals, including the authorities under subsection (a).

` (2) Each strategy under paragraph (1) shall--

` (A) assess current recruitment policies, procedures, and practices of the military department concerned to assure that such strategy facilitates the implementation of efficiencies which reduce the time required to fill vacant positions for medical and health professionals; and

^ (B) clearly identify processes and actions that will be used to inform and educate military and civilian personnel responsible for the recruitment of medical and health professionals. '.

(b) Clerical Amendment- The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 1599c and inserting the following new item:

^ 1599c. Health care professionals: enhanced appointment and compensation authority for personnel for care and treatment of wounded and injured members of the armed forces. '.

(c) Reports on Strategies on Recruitment of Medical and Health Professionals- Not later than six months after the date of the enactment of this Act, each Secretary of a military department shall submit to the congressional defense committees a report setting forth the strategy developed by such Secretary under section 1599c(b) of title 10, United States Code, as added by subsection (a).

SEC. 233. PERSONNEL SHORTAGES IN THE MENTAL HEALTH WORKFORCE OF THE DEPARTMENT OF DEFENSE, INCLUDING PERSONNEL IN THE MENTAL HEALTH WORKFORCE.

(a) Recommendations on Means of Addressing Shortages-

(1) REPORT- Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the recommendations of the Secretary for such legislative or administrative actions as the Secretary considers appropriate to address shortages in health care professionals within the Department of Defense, including personnel in the mental health workforce.

(2) ELEMENTS- The report required by paragraph (1) shall address the following:

(A) Enhancements or improvements of financial incentives for health care professionals, including personnel in the mental health workforce, of the Department of Defense in order to enhance the recruitment and retention of such personnel, including recruitment, accession, or retention bonuses and scholarship, tuition, and other financial assistance.

(B) Modifications of service obligations of health care professionals, including personnel in the mental health workforce.

(C) Such other matters as the Secretary considers appropriate.

(b) Recruitment- Commencing not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall implement programs to recruit qualified individuals in health care fields (including mental health) to serve in the Armed Forces as health care and mental health personnel of the Armed Forces.

TITLE III--DISABILITY MATTERS

Subtitle A--Disability Evaluations

SEC. 301. UTILIZATION OF VETERANS' PRESUMPTION OF ELIGIBILITY OF MEMBERS OF THE ARMED FORCES FOR FOR DISABILITY.

(a) Retirement of Regulars and Members on Active Duty for More Than 30 Days- Clause (i) of section 1201(b)(3)(B) of title 10, United States Code, is amended to read as follows:

` (i) the member has six months or more of active military service and the disability was not noted at the time of the member's entrance on active duty (unless compelling evidence or medical judgment is such to warrant a finding that the disability existed before the member's entrance on active duty);'

(b) Separation of Regulars and Members on Active Duty for More Than 30 Days- Section 1203(b)(4)(B) of such title is amended by striking `and the member has at least eight years of service computed under section 1208 of this title' and inserting `, the member has six months or more of active military service, and the disability was not noted at the time of the member's entrance on active duty (unless evidence or medical judgment is such to warrant a finding that the disability existed before the member's entrance on active duty)'

SEC. 302. REQUIREMENTS ON DEPARTMENT OF DEFENSE DETERMINATIONS OF DISABILITY .

(a) In General- Chapter 61 of title 10, United States Code, is amended by inserting after section 1216 the following new section:

` Sec. 1216a. Determinations of disability: requirements and limitations on determinations

` (a) Utilization of VA Schedule for Rating Disabilities in Determinations of Disability- (1) In making a determination of disability of a member of the armed forces for purposes of this chapter, the Secretary concerned--

` (A) shall, to the extent feasible, utilize the schedule for rating disabilities in use by the Department of Veterans Affairs, including any applicable interpretation of the schedule by the United States Court of Appeals for Veterans Claims; and

` (B) except as provided in paragraph (2), may not deviate from the schedule or any such interpretation of the schedule.

` (2) In making a determination described in paragraph (1), the Secretary concerned may utilize in lieu of the schedule described in that paragraph such criteria as the Secretary of Defense and the Secretary of Veterans Affairs may jointly prescribe for purposes of this subsection if the utilization of such criteria will result in a determination of a greater percentage of disability than would be otherwise determined through the utilization of the schedule.

` (b) Consideration of All Medical Conditions- In making a determination of the rating of disability of a member of the armed forces for purposes of this chapter, the Secretary concerned shall take into account all medical conditions, whether individually or collectively, that render the member unfit to perform the duties of the member's office, grade, rank, or rating.'

(b) Clerical Amendment- The table of sections at the beginning of chapter 61 of such title is amended by inserting after the item relating to section 1216 the following new item:

` 1216a. Determinations of disability: requirements and limitations on determinations.'

SEC. 303. PROGRAMS ON REVISED AND IMPROVED DISABILITY EVALUATION SYSTEM FOR MEMBERS OF THE ARMED FORCES.

(a) Pilot Programs-

(1) IN GENERAL- The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, carry out pilot programs with respect to the disability evaluation system of the Department of Defense for the purpose set forth in subsection (d).

(2) REQUIRED PILOT PROGRAMS- In carrying out this section, the Secretary of Defense shall carry out the pilot programs described in paragraphs (1) through (3) of subsection (c). Each such pilot program shall be implemented not later than 90 days after the date of the enactment of this Act.

(3) AUTHORIZED PILOT PROGRAMS- In carrying out this section, the Secretary of Defense may carry out such other pilot programs as the Secretary of Defense, in consultation with the Secretary of Veterans Affairs, considers appropriate.

(b) Disability Evaluation System of the Department of Defense- For purposes of this section, the disability evaluation system of the Department of Defense is the system of the Department for the evaluation of the disabilities of members of the Armed Forces who are being separated or retired from the Armed Forces for disability under chapter 61 of title 10, United States Code.

(c) Scope of Pilot Programs-

(1) DISABILITY DETERMINATIONS BY DOD UTILIZING VA ASSIGNED DISABILITY RATING- Under one of the pilot programs under subsection (a), for purposes of making a determination of disability of a member of the Armed Forces under section 1201(b) of title 10, United States Code, for the retirement, separation, or placement of the member on the temporary disability retired list under chapter 61 of such title, upon a determination by the Secretary of the military department concerned that the member is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability as described in section 1201(a) of such title--

(A) the Secretary of Veterans Affairs shall--

(i) conduct an evaluation of the member for physical disability;
and

(ii) assign the member a rating of disability in accordance with the schedule for rating disabilities utilized by the Secretary of Veterans Affairs based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and

(B) the Secretary of the military department concerned shall make the determination of disability regarding the member utilizing the rating of disability assigned under subparagraph (A)(ii).

(2) DISABILITY DETERMINATIONS UTILIZING JOINT DOD/VA ASSIGNED DISABILITY RATING- Under one of the pilot programs under subsection (a), in making a determination of disability of a member of the Armed Forces under section 1201(b) of title 10, United States Code, for the retirement, separation, or placement of the member on the temporary disability retired list under chapter 61 of such title, the Secretary of the military department concerned shall, upon determining that the member is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability as described in section 1201(a) of such title--

(A) provide for the joint evaluation of the member for disability by the Secretary of the military department concerned and the Secretary of Veterans Affairs, including the assignment of a rating of disability for the member in accordance with the schedule for rating disabilities utilized by the Secretary of Veterans Affairs based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and

(B) make the determination of disability regarding the member utilizing the rating of disability assigned under subparagraph (A).

(3) *ELECTRONIC CLEARING HOUSE*- Under one of the pilot programs, the Secretary of Defense shall establish and operate a single Internet website for the disability evaluation system of the Department of Defense that enables participating members of the Armed Forces to fully utilize such system through the Internet, with such Internet website to include the following:

(A) The availability of any forms required for the utilization of the disability evaluation system by members of the Armed Forces under the system.

(B) Secure mechanisms for the submission of such forms by members of the Armed Forces under the system, and for the tracking of the acceptance and review of any forms so submitted.

(C) Secure mechanisms for advising members of the Armed Forces under the system of any additional information, forms, or other items that are required for the acceptance and review of any forms so submitted.

(D) The continuous availability of assistance to members of the Armed Forces under the system (including assistance through the caseworkers assigned to such members of the Armed Forces) in submitting and tracking such forms, including assistance in obtaining information, forms, or other items described by subparagraph (C).

(E) Secure mechanisms to request and receive personnel files or other personnel records of members of the Armed Forces under the system that are required for submission under the disability evaluation system, including the capability to track requests for such files or records and to determine the status of such requests and of responses to such requests.

(4) *OTHER PILOT PROGRAMS*- Under any pilot program carried out by the Secretary of Defense under subsection (a)(3), the Secretary shall provide for the development, evaluation, and identification of such practices and procedures under the disability evaluation system of the Department of Defense as the Secretary considers appropriate for purpose set forth in subsection (d).

(d) *Purpose*- The purpose of each pilot program under subsection (a) shall be--

(1) to provide for the development, evaluation, and identification of revised and improved practices and procedures under the disability evaluation system of the Department of Defense in order to--

(A) reduce the processing time under the disability evaluation system of members of the Armed Forces who are likely to be retired or separated for disability, and who have not requested continuation on active duty, including, in particular, members who are severely wounded;

(B) identify and implement or seek the modification of statutory or administrative policies and requirements applicable to the disability evaluation system that--

(i) are unnecessary or contrary to applicable best practices of civilian employers and civilian healthcare systems; or
(ii) otherwise result in hardship, arbitrary, or inconsistent outcomes for members of the Armed Forces, or unwarranted inefficiencies and delays;

(C) eliminate material variations in policies, interpretations, and overall performance standards among the military departments under the disability evaluation system; and

(D) determine whether it enhances the capability of the Department of Veterans Affairs to receive and determine claims from members of the Armed Forces for compensation, pension, hospitalization, or other veterans benefits; and

(2) in conjunction with the findings and recommendations of applicable Presidential and Department of Defense study groups, to provide for the eventual development of revised and improved practices and procedures for the disability evaluation system in order to achieve the objectives set forth in paragraph (1).

(e) *Utilization of Results in Updates of Comprehensive Policy on Care, Management, and Transition of Covered service member* - The Secretary of Defense and the Secretary of Veterans Affairs shall jointly incorporate responses to any findings and recommendations arising under the pilot programs required by subsection (a) in updating the comprehensive policy on the care and management of covered service members under section 101.

(f) *Construction With Other Authorities-*

(1) *IN GENERAL-* Subject to paragraph (2), in carrying out a pilot program under subsection (a)--

(A) the rules and regulations of the Department of Defense and the Department of Veterans Affairs relating to methods of determining fitness or unfitness for duty and disability ratings for members of the Armed Forces shall apply to the pilot program only to the extent provided in the report on the pilot program under subsection (h)(1); and

(B) the Secretary of Defense and the Secretary of Veterans Affairs may waive any provision of title 10, 37, or 38, United States Code, relating to methods of determining fitness or unfitness for duty and disability ratings for members of the Armed Forces if the Secretaries determine in writing that the application of such provision would be inconsistent with the purpose of the pilot program.

(2) *LIMITATION-* Nothing in paragraph (1) shall be construed to authorize the waiver of any provision of section 1216a of title 10, United States Code, as added by section 302 of this Act.

(g) *Duration-* Each pilot program under subsection (a) shall be completed not later than one year after the date of the commencement of such pilot program under that subsection.

(h) *Reports-*

(1) *INITIAL REPORT-* Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the pilot programs under subsection (a). The report shall include--

(A) a description of the scope and objectives of each pilot program;

(B) a description of the methodology to be used under such pilot program to ensure rapid identification under such pilot program of revised or improved practices under the disability evaluation system of

the Department of Defense in order to achieve the objectives set forth in subsection (d)(1); and

(C) a statement of any provision described in subsection (f)(1)(B) that shall not apply to the pilot program by reason of a waiver under that subsection.

(2) INTERIM REPORT- Not later than 150 days after the date of the submittal of the report required by paragraph (1), the Secretary shall submit to the appropriate committees of Congress a report describing the current status of such pilot program.

(3) FINAL REPORT- Not later than 90 days after the completion of all the pilot programs described in paragraphs (1) through (3) of subsection (c), the Secretary shall submit to the appropriate committees of Congress a report setting forth a final evaluation and assessment of such pilot programs. The report shall include such recommendations for legislative or administrative action as the Secretary considers appropriate in light of such pilot programs.

SEC. 305. REPORTS ON ARMY ACTION PLAN IN RESPONSE TO DEFICIENCIES IN THE ARMY PHYSICAL DISABILITY EVALUATION SYSTEM.

(a) Reports Required- Not later than 30 days after the date of the enactment of this Act, and every 120 days thereafter until March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of corrective measures by the Department of Defense with respect to the Physical Disability Evaluation System (PDES) in response to the following:

(1) The report of the Inspector General of the Army on that system of March 6, 2007.

(2) The report of the Independent Review Group on Rehabilitation Care and Administrative Processes at Walter Reed Army Medical Center and National Naval Medical Center.

(3) The report of the Department of Veterans Affairs Task Force on Returning Global War on Terror Heroes.

(b) Elements of Report- Each report under subsection (a) shall include current information on the following:

(1) The total number of cases, and the number of cases involving combat disabled service member , pending resolution before the Medical and Physical Disability Evaluation Boards of the Army, including information on the number of members of the Army who have been in a medical hold or holdover status for more than each of 100, 200, and 300 days.

(2) The status of the implementation of modifications to disability evaluation processes of the Department of Defense in response to the following:

(A) The report of the Inspector General on such processes dated March 6, 2007.

(B) The report of the Independent Review Group on Rehabilitation Care and Administrative Processes at Walter Reed Army Medical Center and National Naval Medical Center.

(C) The report of the Department of Veterans Affairs Task Force on Returning Global War on Terror Heroes.

(c) Posting on Internet- Not later than 24 hours after submitting a report under subsection (a), the Secretary shall post such report on the Internet website of the Department of Defense that is available to the public.

Subtitle B--Other Disability Matters

SEC. 311. ENHANCEMENT OF DISABILITY SEVERANCE PAY FOR MEMBERS OF THE ARMED FORCES.

- (a) In General- Section 1212 of title 10, United States Code, is amended--
- (1) in subsection (a)(1), by striking `his years of service, but not more than 12, computed under section 1208 of this title' in the matter preceding subparagraph (A) and inserting `the member's years of service computed under section 1208 of this title (subject to the minimum and maximum years of service provided for in subsection (c))';
 - (2) by redesignating subsection (c) as subsection (d); and
 - (3) by inserting after subsection (b) the following new subsection (c):
- `(c)(1) The minimum years of service of a member for purposes of subsection (a)(1) shall be as follows:
- `(A) Six years in the case of a member separated from the armed forces for a disability incurred in line of duty in a combat zone (as designated by the Secretary of Defense for purposes of this subsection) or incurred during the performance of duty in combat-related operations as designated by the Secretary of Defense.
 - `(B) Three years in the case of any other member.
- `(2) The maximum years of service of a member for purposes of subsection (a)(1) shall be 19 years.'
- (b) No Deduction From Compensation of Severance Pay for Disabilities Incurred in Combat Zones- Subsection (d) of such section, as redesignated by subsection (a)(2) of this section, is further amended--
- (1) by inserting `(1)' after `(d)';
 - (2) by striking the second sentence; and
 - (3) by adding at the end the following new paragraphs:
- `(2) No deduction may be made under paragraph (1) in the case of disability severance pay received by a member for a disability incurred in line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Secretary of Defense.
- `(3) No deduction may be made under paragraph (1) from any death compensation to which a member's dependents become entitled after the member's death.'
- (c) Effective Date- The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to members of the Armed Forces separated from the Armed Forces under chapter 61 of title 10, United States Code, on or after that date.

SEC. 312. ELECTRONIC TRANSFER FROM THE DEPARTMENT OF DEFENSE TO THE DEPARTMENT OF VETERANS AFFAIRS OF DOCUMENTS SUPPORTING ELIGIBILITY FOR BENEFITS.

The Secretary of Defense and the Secretary of Veterans Affairs shall jointly develop and implement a mechanism to provide for the electronic transfer from the Department of Defense to the Department of Veterans Affairs of any Department of Defense documents (including Department of Defense form DD-214) necessary to establish or support the eligibility of a member of the Armed Forces for benefits under the laws administered by the Secretary of Veterans Affairs at the time of the retirement, separation, or release of the member from the Armed Forces.

SEC. 313. ASSESSMENTS OF TEMPORARY DISABILITY RETIRED LIST.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Comptroller General of the United States shall each submit to the congressional defense committees a report assessing the continuing utility of the temporary disability retired list in satisfying the purposes for which the temporary disability retired list was established. Each report shall include such recommendations for the modification or improvement of the temporary disability retired list as the Secretary or the Comptroller General, as applicable, considers appropriate in light of the assessment in such report.

TITLE IV--OUTREACH AND RELATED INFORMATION ON BENEFITS

Sec. 401. Mandatory implementation of Benefits Delivery Program for Armed Forces on compensation and benefits available for serious injuries and illnesses at the time of Discharge.

(a) Information on Available Compensation and Benefits- The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, and the Commissioner of Social Security, develop and maintain in handbook and electronic form a comprehensive description of the compensation and other benefits to which a member of the Armed Forces, and the family of such member, would be entitled upon the member's separation or retirement from the Armed Forces as a result of a serious injury or illness. The handbook shall set forth the range of such compensation and benefits based on grade, length of service, degree of disability at separation or retirement, and such other factors affecting such compensation and benefits as the Secretary of Defense considers appropriate.

(b) Update- The Secretary of Defense shall update the comprehensive description required by subsection (a), including the handbook and electronic form of the description, on a periodic basis, but not less often than annually.

(c) Provision to Members- The Secretary of the military department concerned shall provide the descriptive handbook under subsection (a) to each member of the Armed Forces described in that subsection as soon as practicable following the injury or illness qualifying the member for coverage under that subsection.

(d) Provision to Representatives- If a member is incapacitated or otherwise unable to receive the descriptive handbook to be provided under subsection (a), the handbook shall be provided to the next of kin or a legal representative of the member (as determined in accordance with regulations prescribed by the Secretary of the military department concerned for purposes of this section).

TITLE V--OTHER MATTERS

SEC. 501. STUDY ON PHYSICAL AND MENTAL HEALTH AND OTHER READJUSTMENT NEEDS OF MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WHO DEPLOYED IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM AND THEIR FAMILIES.

(a) Study Required- The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, enter into an agreement with the National Academy of Sciences for a study on the physical and mental health and other readjustment

needs of members and former members of the Armed Forces who deployed in Operation Iraqi Freedom or Operation Enduring Freedom and their families as a result of such deployment.

(b) Phases- The study required under subsection (a) shall consist of two phases:

(1) A preliminary phase, to be completed not later than 180 days after the date of the enactment of this Act--

(A) to identify preliminary findings on the physical and mental health and other readjustment needs described in subsection (a) and on gaps in care for the members, former members, and families described in that subsection; and

(B) to determine the parameters of the second phase of the study under paragraph (2).

(2) A second phase, to be completed not later than three years after the date of the enactment of this Act, to carry out a comprehensive assessment, in accordance with the parameters identified under the preliminary report required by paragraph (1), of the physical and mental health and other readjustment needs of members and former members of the Armed Forces who deployed in Operation Iraqi Freedom or Operation Enduring Freedom and their families as a result of such deployment, including, at a minimum--

(A) an assessment of the psychological, social, and economic impacts of such deployment on such members and former members and their families;

(B) an assessment of the particular impacts of multiple deployments in Operation Iraqi Freedom or Operation Enduring Freedom on such members and former members and their families;

(C) an assessment of the full scope of the neurological, psychiatric, and psychological effects of traumatic brain injury (TBI) on members and former members of the Armed Forces, including the effects of such effects on the family members of such members and former members, and an assessment of the efficacy of current treatment approaches for traumatic brain injury in the United States and the efficacy of screenings and treatment approaches for traumatic brain injury within the Department of Defense and the Department of Veterans Affairs;

(D) an assessment of the effects of undiagnosed injuries such as post-traumatic stress disorder (PTSD) and traumatic brain injury, an estimate of the long-term costs associated with such injuries, and an assessment of the efficacy of screenings and treatment approaches for post-traumatic stress disorder and other mental health conditions within the Department of Defense and Department of Veterans Affairs;

(E) an assessment of the particular needs and concerns of female members of the Armed Forces and female veterans;

(F) an assessment of the particular needs and concerns of children of members of the Armed Forces, taking into account differing age groups, impacts on development and education, and the mental and emotional well being of children;

(G) an assessment of the particular needs and concerns of minority members of the Armed Forces and minority veterans;

(H) an assessment of the particular educational and vocational needs of such members and former members and their families, and an assessment of the efficacy of existing educational and vocational programs to address such needs;

(I) an assessment of the impacts on communities with high populations of military families, including military housing communities and townships with deployed members of the National Guard and Reserve, of deployments associated with Operation Iraqi Freedom and Operation Enduring Freedom, and an assessment of the efficacy of programs that address community outreach and education concerning military deployments of community residents;

(J) an assessment of the impacts of increasing numbers of older and married members of the Armed Forces on readjustment requirements;

(K) the development, based on such assessments, of recommendations for programs, treatments, or policy remedies targeted at preventing, minimizing or addressing the impacts, gaps and needs identified; and

(L) the development, based on such assessments, of recommendations for additional research on such needs.

(c) Populations To Be Studied- The study required under subsection (a) shall consider the readjustment needs of each population of individuals as follows:

(1) Members of the regular components of the Armed Forces who are returning, or have returned, to the United States from deployment in Operation Iraqi Freedom or Operation Enduring Freedom.

(2) Members of the National Guard and Reserve who are returning, or have returned, to the United States from deployment in Operation Iraqi Freedom or Operation Enduring Freedom.

(3) Veterans of Operation Iraqi Freedom or Operation Enduring Freedom.

(4) Family members of the members and veterans described in paragraphs (1) through (3).

(d) Access to Information- The National Academy of Sciences shall have access to such personnel, information, records, and systems of the Department of Defense and the Department of Veterans Affairs as the National Academy of Sciences requires in order to carry out the study required under subsection (a).

(e) Privacy of Information- The National Academy of Sciences shall maintain any personally identifiable information accessed by the Academy in carrying out the study required under subsection (a) in accordance with all applicable laws, protections, and best practices regarding the privacy of such information, and may not permit access to such information by any persons or entities not engaged in work under the study.

(f) Reports by National Academy of Sciences- Upon the completion of each phase of the study required under subsection (a), the National Academy of Sciences shall submit to the Secretary of Defense and the Secretary of Veterans Affairs a report on such phase of the study.

(g) DoD and VA Response to NAS Reports-

(1) PRELIMINARY RESPONSE- Not later than 45 days after the receipt of a report under subsection (f) on each phase of the study required under subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall jointly develop a preliminary joint Department of Defense-Department of Veterans Affairs plan to address the findings and recommendations of the National Academy of Sciences contained in such report. The preliminary plan shall provide preliminary proposals on the matters set forth in paragraph (3).

(2) FINAL RESPONSE- Not later than 90 days after the receipt of a report under subsection (f) on each phase of the study required under subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall jointly develop a final joint Department of Defense-Department of Veterans Affairs plan to address the findings and recommendations of the National

Academy of Sciences contained in such report. The final plan shall provide final proposals on the matters set forth in paragraph (3).

(3) COVERED MATTERS- The matters set forth in this paragraph with respect to a phase of the study required under subsection (a) are as follows:

(A) Modifications of policy or practice within the Department of Defense and the Department of Veterans Affairs that are necessary to address gaps in care or services as identified by the National Academy of Sciences under such phase of the study.

(B) Modifications of policy or practice within the Department of Defense and the Department of Veterans Affairs that are necessary to address recommendations made by the National Academy of Sciences under such phase of the study.

(C) An estimate of the costs of implementing the modifications set forth under subparagraphs (A) and (B), set forth by fiscal year for at least the first five fiscal years beginning after the date of the plan concerned.

(4) REPORTS ON RESPONSES- The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to Congress a report setting forth each joint plan developed under paragraphs (1) and (2).

(5) PUBLIC AVAILABILITY OF RESPONSES- The Secretary of Defense and the Secretary of Veterans Affairs shall each make available to the public each report submitted to Congress under paragraph (4), including by posting an electronic copy of such report on the Internet website of the Department of Defense or the Department of Veterans Affairs, as applicable, that is available to the public.

(6) GAO AUDIT- Not later than 45 days after the submittal to Congress of the report under paragraph (4) on the final joint Department of Defense-Department of Veterans Affairs plan under paragraph (2), the Comptroller General of the United States shall submit to Congress a report assessing the contents of such report under paragraph (4). The report of the Comptroller General under this paragraph shall include--

(A) an assessment of the adequacy and sufficiency of the final joint Department of Defense-Department of Veterans Affairs plan in addressing the findings and recommendations of the National Academy of Sciences as a result of the study required under subsection (a);

(B) an assessment of the feasibility and advisability of the modifications of policy and practice proposed in the final joint Department of Defense-Department of Veterans Affairs plan;

(C) an assessment of the sufficiency and accuracy of the cost estimates in the final joint Department of Defense-Department of Veterans Affairs plan; and

(D) the comments, if any, of the National Academy of Sciences on the final joint Department of Defense-Department of Veterans Affairs plan.

(h) Authorization of Appropriations- There is hereby authorized to be appropriated to the Department of Defense such sums as may be necessary to carry out this section.

SEC. 314. DISABILITY MANAGEMENT AND CARE.

(a) Evaluation and Assignment of members of the Armed Forces-

(1) IN GENERAL- Part II of title 10, United States Code, is amended by inserting after chapter (to be determined) the following new chapter:

`CHAPTER (TBD)—Evaluation and Determination of Benefits for Service Members Being Separated or Recently Separated

`subchapter i—definitions

`Sec.

`01. Purpose of this chapter.

`subchapter ii—fitness evaluation

`11. Uniform medical reporting and information exchange between all service branches other government agencies.

`12. Disability Rating of medical condition(s) for all members of the Armed Forces.

`13. Pay and healthcare benefits to qualified members and their families.

`subchapter iii--administrative provisions

`21. Time limitation for use of and eligibility for entitlement.

`22. Bar to duplication of medical benefits and other assistance.

`23. Administration and coordination of benefits between civilian and government agencies.

`24. Allocation of administration and costs.

`SUBCHAPTER I—DEFINITIONS

`Sec. (01). Definitions

`SUBCHAPTER II—FITNESS AND EVALUATION

`Sec. 11. Uniform medical reporting and information exchange between all service branches other government agencies..

It shall be the responsible of each Secretary of each Branch of the Armed Forces to apply universal and acceptable standards of reporting and describing conditions of Armed Forces members' medical evaluation information. The interchange of reporting information shall be of a standard acceptable to competent medical professionals such that the exchange of records is of a format useable by all the various branches.

Sec. 12. Disability Rating of medical condition(s) for all members of the Armed Forces.

The application of the Disability Rating System shall be the sole function of the Secretary of the Department of Veterans Services and the service member shall be rate by a single authority under the control of the Veterans Affairs. The process used to determine the level of disability shall be as seamless as possible between the Veterans Administration and the Armed Forces. The percentage of disability shall, based on accepted information from competent medical authority, in conjunction with qualified representatives knowledgeable in the specific areas of service members assigned performance specialty, be assigned solely be the Veterans Administration.

Sec. 13. Pay and healthcare benefits to qualified members and their families.

It shall be the responsibility of the separate branches of the Armed Services to maintain and provide support to all members of the various services until such time as the Secretary of Veterans Affairs renders a rating of disability to the member. All pay, allowances and benefits will remain in full force for the member and their dependants pending the resolution of the Veterans Affairs decision. When a final determination is made as to the level of disability and the disability is stable, if, in conjunction with the several branches of the Armed Forces, the service member will not be returned to active duty, the Veterans Administration will begin immediately to assume financial coverage.

AMEND

Conforming AMENDMENTS

AMENDMENTS: Relating to TITLE 10, Subtitle A, PART II, CHAPTER 55 - MEDICAL AND DENTAL CARE, Sec. 1071. Purpose of this chapter.

The purpose of this chapter is to create and maintain high morale in the uniformed services by providing an improved and uniform program of medical and dental care for members and certain former members of those services, and for their dependents. **It is the objective of this section to provide a seamless and universal process to assist members of the Armed Forces into civilian life.**

The words "It is the objective of this section to provide a seamless and universal process to assist members of the Armed Forces into civilian life." are inserted to provide for changes in management and definition of healthcare transition.

AMENDMENTS: Relating to TITLE 10, Subtitle A, PART II, CHAPTER 55 - MEDICAL AND DENTAL CARE, Sec. 1076d. TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty.

TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty

(b) (2) Unless earlier terminated under paragraph (3), the period for TRICARE Standard coverage of a member under this section shall be equal to the lesser of -

(A) one year, in the case of a member who is otherwise eligible but does not serve continuously on active duty for 90 days as described in subsection (a) because of an injury, illness, or disease incurred or aggravated while deployed;

(B) one year for each consecutive period of 90 days of continuous active-duty service described in subsection (a); or

(C) the number of whole years for which the member agrees under paragraph (2) of such subsection to continue to serve in the Selected Reserve after the coverage begins.

(D) Until such time as a determination is made by the Veterans Administration in regards to any finding of a disabling condition and the appropriate rating is assign.

(E) TRICARE standard will continue for the service member and the dependents of this member so long as a final determination had been rendered as the level of fitness of the service member.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 55, Sec. 1078a. Continued health benefit coverage

(b) Eligible Persons. - The persons referred to in subsection (a) are the following:

(1) A member of the uniformed services who -

(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, **or is waiting classification rating for a disability from the Veterans Administration,** as characterized by the

Secretary concerned;

(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 55, Sec. 1095e. TRICARE program: beneficiary counseling and assistance coordinators.

(a) Establishment of Positions. - The Secretary of Defense shall require in regulations that -

(1) each lead agent under the TRICARE program -

(A) designate a person to serve full-time as a beneficiary counseling and assistance coordinator for beneficiaries under the TRICARE program;

(B) designate for each of the TRICARE program regions at least one person (other than a person designated under subparagraph (A)) to serve full-time as a beneficiary counseling and assistance coordinator solely for members of the reserve components and their dependents who are beneficiaries under the TRICARE program; and

(C) provide for toll-free telephone communication between such beneficiaries and the beneficiary counseling and assistance coordinator; **and provide a full-time coordinator as a counselor as describe in subparagraph (B) to assist the Veterans Administration;**

and

(2) the commander of each military medical treatment facility under this chapter designate a person to serve, as a primary or collateral duty, as beneficiary counseling and assistance coordinator for beneficiaries under the TRICARE program served at that facility.

(b) Duties. - The Secretary shall prescribe the duties of the position of beneficiary counseling and assistance coordinator in the regulations required by subsection (a).

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 58, Sec. 1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs.

(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of that member's first 180 days of active duty.

(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.

(b) Matters To Be Covered By Counseling. - Counseling under this section shall include the following:

(1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member's service in the armed forces.

(2) (A) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and vocational rehabilitation benefits to which the member may be entitled under laws administered by the Secretary of Veterans Affairs, if the member is being medically separated or is being retired under chapter 61 of this title. (B) A description of the rights and procedures for obtaining assistance with Disability Claims Processing used by the Veterans Administration.

(3) An explanation of the procedures for and advantages of affiliating with the Selected Reserve.

(4) Information concerning Government and private-sector programs for job search and job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement programs established under sections 1152 and 1153 of this title and the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.).(1)

(5) If the member has a spouse, job placement counseling for the spouse.

(6) Information concerning the availability of relocation assistance services and other benefits and services available to persons leaving military service, as provided under section 1144 of this title.

(7) Information concerning the availability of medical and dental coverage following separation from active duty, including the opportunity to elect into the conversion health policy provided under section 1145 of this title.

(8) Counseling (for the member and dependents) on the effect of career change on individuals and their families.

(9) Financial planning assistance.

(10) The creation of a transition plan for the member to attempt to achieve the educational, training, and employment objectives of the member and, if the member has a spouse, the spouse of the member.

DELETE PARAGRAPH C AND REPLACE WITH:

(c) Transmittal of Medical Information to Department of Veterans Affairs. - In the case of a member being medically separated or being retired under chapter 61 of this title, the Secretary concerned shall ensure (subject to the consent of the member) that a copy of the member's service medical record (including any results of a Physical Evaluation Board) is transmitted to the Secretary of Veterans Affairs within 60 days the separation or retirement. In those instances wherein the members is determined by competent medical authority under Section 1501 of Title

38, the Secretary concerned shall transmit the members medical records at least 90 days prior to the separation date.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 58, Sec. 1145. Health Benefits.

DELETE Paragraph (3) and replace with:

(3) (A) Transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty. In the case wherein the member of the service has been determined by competent medical authority as defined in Section 1501 of Title 38, Transitional healthcare shall be available until such time as the member receives a full rating of disability from the Veterans Administration.

DELETE Paragraph (4) (b) (1) and replace with:

(1) The Secretary of Defense shall inform each member referred to in subsection (a) before the date of the member's discharge or release from active duty of the availability for purchase by the member of a conversion health policy for the member and the dependents of that member. A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period. In the cases of those members of the service waiting for a disability rating from the Veterans administration, the 18-month period for coverage will begin on the date the rating is rendered.

(2) If a member referred to in subsection (a) purchases a conversion health policy during the period applicable to the member (or within a reasonable time after that period as prescribed by the

Secretary of Defense), the Secretary shall provide health care, or pay the costs of health care provided, to the member and the dependents of the member -

(A) during the 18-month period beginning on the date on which coverage under the conversion health policy begins; and

(B) for a condition (including pregnancy) that exists on such date and for which care is not provided under the policy solely on the **grounds that the condition is a preexisting condition.** – NOTE:1

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 61, Sec. 1210. Members on temporary disability retired list: periodic physical examination; final determination of status.

(c) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member's physical disability is of a permanent nature and stable and is at least 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, his name shall be removed from the temporary disability retired list and he shall be retired under section 1201 or 1204 of this title, whichever applies. **The determination of disability rating will be made by the Department of Veterans Affairs before action under section 1201 or 1204 is commenced.**

(d) If, as a result of a periodic examination under subsection(a), or upon a final determination under subsection (b), it is determined that the member's physical disability is of a permanent nature and stable and is less than 30 percent under the standard schedule of rating disabilities (**DELETE** in use) **as determined** by the Department of Veterans Affairs at the time of the (**DELETE** determination) **examination**, and if he has at least 20 years of service computed under section 1208 of this title, his name shall be removed from the temporary disability retired list and he shall be retired under section 1201 or 1204 of this title, whichever applies, with retired pay computed under section 1401 of this title. **The determination of disability rating will be made by the Department of Veterans Affairs before action under section 1201 or 1204 is commenced.**

(e) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member's physical disability is less than 30 percent under the standard schedule of rating disabilities **as determined** by the Department of Veterans Affairs at the time of the **examination**, and if he has less than 20 years of service computed under section 1208 of this title, his name shall be removed from the temporary disability retired list and he may be separated under section 1203 or 1206 of this title, whichever applies. (f)(1) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member is physically fit to perform the duties of his office, grade, rank, or rating, the Secretary shall -

- (A) treat the member as provided in section 1211 of this title; or
- (B) discharge the member, retire the member, or transfer the member to the Fleet Reserve, Fleet Marine Corps Reserve, or inactive Reserve under any other law if, under that law, the member -
 - (i) applies for and qualifies for that retirement or transfer; or
 - (ii) is required to be discharged, retired, or eliminated from an active status.

(2)(A) For the purpose of paragraph (1)(B), a member shall be considered qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve or is required to be discharged, retired, or eliminated from an active status if, were the member reappointed or reenlisted under section 1211 of this title, the member would in all other respects be qualified for or would be required to be retired, transferred to the Fleet Reserve or Fleet Marine Corps Reserve, discharged, or eliminated from an active status under any other provision of law.

(B) The grade of a member retired, transferred, discharged, or eliminated from an active status pursuant to paragraph (1)(B) shall be determined under the provisions of law under which the member is retired, transferred, discharged, or eliminated. The member's retired, retainer, severance, readjustment, or separation pay shall be computed as if the member had been reappointed or reenlisted upon removal from the temporary disability retired list and before the retirement, transfer, discharge, or elimination. Notwithstanding section 8301 of title 5, a member who is retired shall be entitled to retired pay effective on the day after the last day on which the member is entitled to disability retired pay.

(g) Any member of the armed forces whose name is on the temporary disability retired list, and who is required to travel to submit to a physical examination under subsection (a), is entitled to the travel and transportation allowances authorized for members in his retired grade traveling in connection with temporary duty while on active duty.

(h) If his name is not sooner removed, the disability retired pay of a member whose name is on the temporary disability retired list terminates upon the expiration of five years after the date when his name was placed on that list.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 61, Sec. 1201. Regulars and members on active duty for more than 30 days: retirement.

- (a) Retirement. - Upon a determination by the Secretary concerned that a member described in subsection (c) is unfit to perform the duties of the member's office, grade, rank, or rating because of physical disability incurred while entitled to basic pay or while absent as described in subsection (c)(3), the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also makes the determinations with respect to the member and that disability specified in subsection (b).
- (b) Required Determinations of Disability. - Determinations referred to in subsection (a) are determinations **made by the Secretary of the Department of Veterans Affairs** that -
 - (1) based upon accepted medical principles, the disability is of a permanent nature and stable;
 - (2) the disability is not the result of the member's intentional misconduct or willful neglect, and as not incurred during a period of unauthorized absence; and
 - (3) either -
 - (A) the member has at least 20 years of service computed under section 1208 of this title; or
 - (B) the disability is at least 30 percent under the standard schedule of rating disabilities in **as determined** by the Department of Veterans Affairs (**at the time of the determination**)**DELETE;** and either -

- (i) the member has at least eight years of service computed under section 1208 of this title;
 - (ii) the disability is the proximate result of performing active duty;
 - (iii) the disability was incurred in line of duty in time of war or national emergency; or
 - (iv) the disability was incurred in line of duty after September 14, 1978.
- (c) Eligible Members. - This section and sections 1202 and 1203 of this title apply to the following members:
- (1) A member of a regular component of the armed forces entitled to basic pay.
 - (2) Any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days.
 - (3) Any other member of the armed forces who is on active duty but is not entitled to basic pay by reason of section 502(b) of title 37 due to authorized absence
 - (A) to participate in an educational program, or
 - (B) for an emergency purpose, as determined by the Secretary concerned.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 61, Sec. 1202. Regulars and members on active duty for more than 30 days: temporary disability retired list.

Upon a determination by the Secretary concerned that a member described in section 1201(c) of this title could be qualified for retirement under section 1201 of this title but for the fact that his disability is not determined to be of a permanent nature and stable, the Secretary shall, if the Veterans Administration determines that accepted medical principles indicate that the disability may be of a permanent nature, place the member's name on the temporary disability retired list, with retired pay computed under section 1401 of this title.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 61, Sec. 1203. Regulars and members on active duty for more than 30 days: separation.

(a) Separation. - Upon a determination by the Secretary concerned that a member described in section 1201(c) of this title is unfit to perform the duties of the member's office, grade, rank, or rating because of physical disability incurred while entitled to basic pay or while absent as described in section 1201(c)(3) of this title, the member may be separated from the member's armed force, with severance pay computed under section 1212 of this title, if the Secretary also makes the determinations with respect to the member and that disability specified in subsection (b).

(b) Required Determinations of Disability. – Determinations referred to in subsection (a) are determinations by the Secretary that –

- (1) the member has less than 20 years of service computed under section 1208 of this title;
- (2) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence;
- (3) based upon accepted medical principles, the disability is or may be of a permanent nature; and
- (4) either –
 - (A) the disability is less than 30 percent under the standard schedule of rating disabilities in as determined by the Department of Veterans Affairs at the time of the determination, and the disability was
 - (i) the proximate result of performing active duty,
 - (ii) incurred in line of duty in time of war or national emergency, or
 - (iii) incurred in line of duty after September 14, 1978;
 - (B) the disability is less than 30 percent under the standard schedule of rating disabilities as determined by the Department of Veterans Affairs at the time of the determination, and the member has at least eight years of service computed under section 1208 of this title, or

- (C) the disability is at least 30 percent under the standard schedule of rating disabilities **as determined** by the Department of Veterans Affairs at the time of the determination, the disability was neither
- (i) the proximate result of performing active duty,
 - (ii) incurred in line of duty in time of war or national emergency, nor
 - (iii) incurred in line of duty after September 14, 1978, and the member has less than eight years of service computed under section 1208 of this title on the date when he would otherwise be retired under section 1201 of this title or placed on the temporary disability retired list under section 1202 of this title.

However, if the member is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, he shall be transferred to that list instead of being separated.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 61, Sec. 1204. Members on active duty for 30 days or less or on inactive-duty training: retirement.

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title is unfit to perform the duties of his office, grade, rank, or rating because of physical disability, the Secretary may retire the member with retired pay computed under section 1401 of this title, if the Secretary also determines that -

- (1) based upon accepted medical principles, the disability is of a permanent nature and stable;
(2) the disability -

- (A) was incurred before September 24, 1996, as the proximate result of -
- (i) performing active duty or inactive-duty training;
 - (ii) traveling directly to or from the place at which such duty is performed; or
 - (iii) an injury, illness, or disease incurred or aggravated while remaining overnight, immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site of the inactive-duty training is outside reasonable commuting distance of the member's residence;
- (B) is a result of an injury, illness, or disease incurred or aggravated in line of duty after September 23, 1996 -
- (i) while performing active duty or inactive-duty training;
 - (ii) while traveling directly to or from the place at which such duty is performed; or
 - (iii) while remaining overnight, immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training; or
- (C) is a result of an injury, illness, or disease incurred or aggravated in line of duty -
- (i) while the member was serving on funeral honors duty under section 12503 of this title or section 115 of title 32;
 - (ii) while the member was traveling to or from the place at which the member was to so serve; or
 - (iii) while the member remained overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence;

(3) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence; and

(4) either -

- (A) the member has at least 20 years of service computed under section 1208 of this title; or
(B) the disability is at least 30 percent under the standard schedule of rating disabilities **as determined** by the Department of Veterans Affairs.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 61, Sec. 1205. Members on active duty for 30 days or less: temporary disability retired list.

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title would be qualified for retirement under section 1204 of this title but for the fact that his disability is not determined to be of a permanent nature and stable, the Secretary shall, if he also determines that accepted medical principles indicate that the disability may be of a permanent nature, place the member's name on the temporary disability retired list, with retired pay computed under section 1401 of this title.

Sec. 1206. Members on active duty for 30 days or less or on inactive-duty training: separation

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title is unfit to perform the duties of his office, grade, rank, or rating because of physical disability, the member may be separated from his armed force, with severance pay computed under section 1212 of this title, if the Secretary also determines that -

- (1) the member has less than 20 years of service computed under section 1208 of this title;
- (2) the disability is a result of an injury, illness, or disease incurred or aggravated in line of duty -
 - (A) while -
 - (i) performing active duty or inactive-duty training;
 - (ii) traveling directly to or from the place at which such duty is performed; or
 - (iii) remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance of the member's residence; or
 - (B) while the member -
 - (i) was serving on funeral honors duty under section 12503 of this title or section 115 of title 32;
 - (ii) was traveling to or from the place at which the member was to so serve; or
 - (iii) remained overnight at or in the vicinity of that place immediately before so serving;
- (3) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence;
- (4) based upon accepted medical principles, the disability is or may be of a permanent nature; and
- (5) the disability is less than 30 percent under the standard schedule of rating disabilities (**DELETE** in use) **as determined** by the Department of Veterans Affairs at the time of the determination, and, in the case of a disability incurred before October 5, 1999, was the proximate result of performing active duty or inactive-duty training or of traveling directly to or from the place at which such duty is performed.

However, if the member is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, he shall be transferred to that list instead of being separated.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 61, Sec. 1206a. Reserve component members unable to perform duties when ordered to active duty: disability system processing.

(a) Members Released From Active Duty Within 30 Days. - A member of a reserve component who is ordered to active duty for a period of more than 30 days and is released from active duty within 30 days of commencing such period of active duty for a reason stated in subsection (b) shall be considered for all purposes under this chapter to have been serving under an order to active duty for a period of 30 days or less.

(b) Applicable Reasons for Release. - Subsection (a) applies in the case of a member released from active duty because of a failure to meet -

- (1) physical standards for retention due to a preexisting condition not aggravated during the period of active duty; or

- (2) medical or dental standards for deployment due to a preexisting condition not aggravated during the period of active duty.
- (c) Savings Provision for Medical Care Provided While on Active Duty. - Notwithstanding subsection (a), any benefit under chapter 55 of this title received by a member described in subsection (a) or a dependent of such member before or during the period of active duty shall not be subject to recoupment or otherwise affected.

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 61, Sec. 1212. Disability severance pay.

(a) Upon separation from his armed force under section 1203 or 1206 of this title, a member is entitled to disability severance pay computed by multiplying (1) his years of service, but not more than 12, computed under section 1208 of this title, by (2) the highest of the following amounts:

(A) Twice the amount of monthly basic pay to which he would be entitled if serving

(i) on active duty on the date when he is separated and

(ii) in the grade and rank in which he was serving on the date when his name was placed on the temporary disability retired list, or if his name was not carried on that list, on the date when he is separated.

(B) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in any temporary grade or rank higher than that described in clause (A), in which he served satisfactorily as determined by the Secretary of the military department or the Secretary of Homeland Security, as the case may be, having jurisdiction over the armed force from which he is separated.

(C) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in the permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is separated and which was found to exist as a result of a physical examination.

(D) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in the temporary grade or rank to which he would have been promoted had it not been for the physical disability for which he is separated and which was found to exist as a result of a physical examination, if his eligibility for promotion was required to be based on cumulative years of service or years in grade.

(b) For the purposes of subsection (a), a part of a year of active service that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

(c) The amount of disability severance pay received under this section shall be deducted from any compensation for the same disability to which the former member of the armed forces or his dependents become entitled under any law administered by the Department of Veterans Affairs. However, no deduction may be made from any death compensation to which his dependents become entitled after his death.

NOTE 2

AMENDMENTS: Relating to TITLE 10, Subtitle A, Part II, Chapter 71, Sec. 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation.

Sec. 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher as determined by the Department of Veterans Affairs: concurrent payment of retired pay and veterans' disability compensation

AMENDMENTS: Relating to TITLE 38, Part II, Chapter 11, Subchapter I, Sec. 1101. Definitions.

For the purposes of this chapter -

- (1) The term "veteran" includes a person who died in the active military, naval, or air service.
- (2) The term "period of war" includes, in the case of any veteran -
 - (A) any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918; and
 - (B) any period of continuous service performed by such veteran after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

(3) The term "chronic disease" includes -

- Anemia, primary
- Arteriosclerosis
- Arthritis
- Atrophy, progressive muscular
- Brain hemorrhage
- Brain thrombosis
- Bronchiectasis
- Calculi of the kidney, bladder, or gallbladder
- Cardiovascular-renal disease, including hypertension
- Cirrhosis of the liver
- Coccidioidomycosis
- Diabetes mellitus
- Encephalitis lethargica residuals
- Endocarditis
- Endocrinopathies
- Epilepsies
- Hansen's disease
- Hodgkin's disease
- Leukemia
- Lupus erythematosus, systemic
- Myasthenia gravis
- Myelitis
- Myocarditis
- Nephritis
- Organic diseases of the nervous system
- Osteitis deformans (Paget's disease)
- Osteomalacia
- Palsy, bulbar
- Paralysis agitans
- Psychoses
- Purpura idiopathic, hemorrhagic
- Raynaud's disease
- Sarcoidosis
- Scleroderma
- Sclerosis, amyotrophic lateral
- Sclerosis, multiple
- Syringomyelia
- Thromboangiitis obliterans (Buerger's disease)
- Tuberculosis, active
- Tumors, malignant, or of the brain or spinal cord or peripheral nerves
- Ulcers, peptic (gastric or duodenal)

and such other chronic diseases as the Secretary may add to this

list.

(4) The term "tropical disease" includes -

- Amebiasis
- Blackwater fever
- Cholera
- Dracontiasis
- Dysentery
- Filiariasis
- Hansen's disease
- Leishmaniasis, including kala-azar
- Loiasis
- Malaria
- Onchocerciasis
- Oroya fever
- Pinta
- Plague
- Schistosomiasis
- Yaws
- Yellow fever

and such other tropical diseases as the Secretary may add to this list.

AMENDMENTS: Relating to TITLE 38, Part II, Chapter 11, Subchapter VI, Sec. 1155. Authority for schedule for rating disabilities.

The Secretary of Veterans Affairs shall adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries. The ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations. The schedule shall be constructed so as to provide ten grades of disability and no more, upon which payments of compensation shall be based, namely, 10 percent, 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, 80 percent, 90 percent, and total, 100 percent. The Secretary shall from time to time readjust this schedule of ratings in accordance with experience. However, in no event shall such a readjustment in the rating schedule cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred.

All application of the ratings to the service member shall be the sole responsibility of the Department of Veterans affairs and assignment of all rating will be held within this department.

AMENDMENTS: Relating to TITLE 38, Part II, Chapter 11, Subchapter VI, Sec. 1161. Payment of disability compensation in disability severance cases.

The deduction of disability severance pay from disability compensation, as required by section 1212(c) of title 10, shall be made at a monthly rate not in excess of the rate of compensation to which the former member would be entitled based on the degree of such former member's disability as determined on the initial Department rating.

NOTE 2

AMENDMENTS: Relating to TITLE 38, Part II, Chapter 15, Subchapter I, Sec. 1501. Definitions.

NOTE 3

AMENDMENTS: Relating to TITLE 38, Part II, Chapter 15, Subchapter VI, Sec. 1501. Determinations with respect to disability

(a) For the purposes of this chapter, a person shall be considered to be permanently and totally disabled if such person is any of the following:

- (1) A patient in a nursing home for long-term care because of disability.
- (2) Disabled, as determined by the Commissioner of Social Security for purposes of any benefits administered by the Commissioner.
- (3) Unemployable as a result of disability reasonably certain to continue throughout the life of the person.
- (4) Suffering from -
 - (A) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the person; or
 - (B) any disease or disorder determined by the Secretary to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.

(b) For the purposes of this chapter, a person shall be considered to be in need of regular aid and attendance if such person is

- (1) a patient in a nursing home or
- (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(c) For the purposes of this chapter, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(c)The determination of the level and application of the disability rating shall be made upon review by competent medical authority and the recommendation thereof to the type, class and severity of disability incurred by the Armed Services member to the Secretary of Veterans Affairs whose sole discretion is place this assignment.

AMENDMENTS: Relating to TITLE 38, Part V, Chapter 77, Subchapter I, Sec. 7703. Function of the Administration

The Veterans Benefits Administration is responsible for the administration of the following programs of the Department:

- (1) Compensation and pension programs.
- (2) Vocational rehabilitation and educational assistance programs.
- (3) Veterans' housing loan programs.
- (4) Veterans' and servicemembers' life insurance programs.
- (5) Outreach programs and other veterans' services programs.
- (6) Application of Disability Ratings program.**

NOTES:

-1 Need to examine the "pre-existing" clause in all cases and who this may apply to either conversion insurance or other policies/programs under the VA.

-2 Needs to be reviewed for potential re-write based on the need to refit the severance pay with the disability clause.

-3 Need to add potential definitions

END