

CRS Report for Congress

“Wounded Warrior” and Veterans Provisions in the FY2008 National Defense Authorization Act

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Summary

This report summarizes provisions in Division A, Titles XVI and XVII, of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110-181, signed by the President on January 28, 2008. Titles XVI and XVII address matters related to the care and treatment of servicemembers and former servicemembers (i.e., veterans) who were wounded, or who contracted an illness, while serving on active duty. These individuals are widely referred to as “wounded warriors.”

Provisions in the act reflect congressional concern about the quality and availability of medical, mental health, and dental care services for servicemembers returning from active duty in Iraq and Afghanistan, and the difficulties that some of these individuals have experienced in their transition from military service to veteran status. The provisions vary in scope. Some of them alter specific aspects of existing services or benefits programs in either the Department of Defense (DOD) or the Department of Veterans Affairs (VA). Others call for comprehensive and long-term redesign of programs or systems in one or both of the departments. Congress and others have determined that certain programs and systems that involve both departments are particularly problematic in providing continuity and quality of care and services to wounded warriors. Among the problems addressed in the act are the efficient maintenance and transfer of servicemembers’ health and benefits records between the departments, and the separate evaluations of disability by each department. Efforts to address these and other transition problems were already underway in both departments, partly in response to the recommendations of several DOD and independent commissions and task forces. The act codifies various mandates for these activities, including deadlines.

This report does not attempt to analyze provisions in the act, but provides brief outlines of the matters addressed. This report will not be updated.

Contents

Legislative History and Overview	1
Abbreviations and Acronyms	2
Title XVI: Wounded Warrior Matters	2
Sec. 1602. General Definitions	2
Sec. 1603. Gender-Specific Needs	2
Subtitle A: Care, Management, and Transition Policy	3
Sec. 1611. Comprehensive Care and Transition Policy	3
Sec. 1612. Medical and Disability Evaluations	3
Sec. 1613. Return to Active Duty	3
Sec. 1614. Transition from DOD to VA Care	3
Sec. 1615. Reports	4
Sec. 1616. Wounded Warrior Resource Center	4
Sec. 1617. Congressional Notification of Combat Wounded	4
Sec. 1618. Comprehensive TBI/PTSD Plan	4
Subtitle B: Centers of Excellence	4
Subtitle C: Health Care Matters	5
Sec. 1631. Medical Care and Other Benefits	5
Sec. 1632. Reimbursement of Travel Expenses	5
Sec. 1633. Respite Care and Other Extended Care Benefits	5
Sec. 1634. Reports	5
Sec. 1635. Interoperable Electronic Health Information	5
Sec. 1636. Enhanced DOD Personnel Authorities	6
Sec. 1637. Continuation of Transitional Health Benefits	6
Subtitle D: Disability Matters	6
Sec. 1641. Presumption of Sound Condition	6
Sec. 1642. DOD Determinations of Disability	6
Sec. 1643. Review of Separations Less than 30% Disabled	6
Sec. 1644. Disability Evaluation Pilot Programs	7
Sec. 1645. Reports on Army Plan Regarding Disability Evaluation	7
Sec. 1646. Disability Severance Pay	8
Sec. 1647. Assessments of the TDRL	8
Sec. 1648. Standards and Reports for MTFs	8
Sec. 1649. Reports on WRAMC	8
Sec. 1650. Required Certifications Regarding WRAMC	9
Sec. 1651. Compensation and Benefits Handbook	9
Subtitle E: Studies and Reports	9
Sec. 1661. Study on Readjustment Needs	9
Sec. 1662. Access to Adequate Outpatient Residential Facilities	9
Sec. 1663. Study and Report on Support Services	9
Sec. 1664. Report on TBI Classifications	9
Sec. 1665. Program Evaluation	9
Subtitle F: Other Matters	10
Sec. 1671. Prohibition on Transfer of Resources from Medical Care	10
Sec. 1672. Medical Care for Families	10

Sec. 1673. Deployment Assessments of Cognitive Function	10
Sec. 1674. Guaranteed Funding for WRAMC	10
Sec. 1675. Use of Federal Leave Transfer Program	10
Sec. 1676. Moratorium on Contractor Conversions at MTFs	11
Title XVII: Veterans Matters	11
Sec. 1701. Sense of Congress	11
Sec. 1702. TBI Rehabilitation and Reintegration Plans	11
Sec. 1703. Use of Non-VA Facilities for TBI	12
Sec. 1704. TBI Research, Education, and Clinical Care	12
Sec. 1705. TBI Pilot Program on Assisted-living Services	13
Sec. 1706. Provision of Age-appropriate Nursing Home Care	13
Sec. 1707. Extension of Period of Eligibility	13
Sec. 1708. Mental Health Service-connection	13
Sec. 1709. Modification Regarding Outpatient Dental Services	13
Sec. 1710. Clarification Regarding Outreach Services	14
Sec. 1711. Designation of Fiduciary or Trustee	14

“Wounded Warrior” and Veterans Provisions in the FY2008 National Defense Authorization Act

Legislative History and Overview

The FY2008 National Defense Authorization bill, H.R. 1585, was adopted by the House on December 12, and by the Senate on December 14, 2007. On December 28, the White House announced that the President would “pocket veto” the bill, a procedure that would preclude efforts by Congress to override the veto. The President objected to a provision of the bill that would allow lawsuits in U.S. courts against the current Iraqi government for damages resulting from acts of the Saddam Hussein regime. On January 16, 2008, the House passed H.R. 4986, a version of H.R. 1585 that was modified to allow the President to waive application to Iraq of the provision that he had cited as grounds for his veto.¹ H.R. 4986 was subsequently passed by the Senate and signed by the President on January 28, 2008, becoming P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008.

Division A of the act provides Department of Defense authorizations. Within Division A, Titles XVI (“Wounded Warrior Matters”) and XVII (“Veterans Matters”) address matters related to the care and treatment of injured or ill servicemembers. These individuals are widely referred to as “wounded warriors.” Provisions in the act reflect congressional concern about the quality and availability of medical, mental health, and dental care services for servicemembers returning from active duty in Iraq and Afghanistan, and the difficulties that some of these individuals have experienced in their transition from military service to veteran status. The provisions vary in scope. Some of them alter specific aspects of existing services or benefits programs in either the Department of Defense (DOD) or the Department of Veterans Affairs (VA). Others call for comprehensive and long-term assessment and/or redesign of programs or systems in one or both of the departments. This report does not attempt to analyze each of the provisions in the act, but provides brief outlines of the matters addressed.²

¹ For more information, see CRS Report RL33999, *Defense: FY2008 Authorization and Appropriations*, by Pat Towell, Stephen Daggett, and Amy Belasco.

² For more information on the authorities and programs discussed in this summary, see CRS Reports regarding “Military Personnel and Compensation” and “Health Care for Military Personnel and Veterans” at [http://apps.crs.gov/cli/level_2.aspx?PRDS_CLI_ITEM_ID=3], and regarding “Veterans’ Benefits” at [http://apps.crs.gov/cli/level_2.aspx?PRDS_CLI_ITEM_ID=13].

Abbreviations and Acronyms

Unless otherwise noted, references in this report to activities of “DOD” (including mentions in Title XVI) or “VA” (including mentions in Title XVII) are activities to be carried out by the Secretary of the stated department. The following acronyms and abbreviations are used:

MTF: military treatment facility

OEF: Operation Enduring Freedom

OIF: Operation Iraqi Freedom

PDES: the DOD’s Physical Disability Evaluation System

PTSD: post-traumatic stress disorder

TBI: traumatic brain injury

TDRL: Temporary Disability Retired List

TSGLI: Traumatic Servicemembers’ Group Life Insurance

VASRD: Veterans Administration Schedule for Rating Disabilities

WRAMC: Walter Reed Army Medical Center

Title XVI: Wounded Warrior Matters

Section 1601 is the short title.

Sec. 1602. General Definitions. This section provides a number of definitions for terms used in the act. Selected definitions are provided below.

The term “medical care” includes mental health care. The term “outpatient status,” with respect to a recovering servicemember, means the status of a recovering servicemember assigned to a military medical treatment facility (MTF) as an outpatient, or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. The term “recovering servicemember” 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 and is in an outpatient status while recovering from a serious injury or illness related to the member’s military service. The term “serious injury or illness,” in the case of a member of the Armed Forces, means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

Sec. 1603. Gender-Specific Needs. Requires the Secretaries of Defense and Veterans Affairs to take into account and address fully any unique gender-specific needs of recovering servicemembers and veterans when developing and implementing a comprehensive policy on improvements to their care, management, and transition.

Subtitle A: Care, Management, and Transition Policy

At the core of this subtitle is a joint requirement of the Secretaries of DOD and VA to develop a comprehensive policy on the care and management of covered servicemembers, to address medical care and case management, medical and disability evaluation, return to duty when appropriate, and transition from DOD to VA.

Sec. 1611. Comprehensive Care and Transition Policy. Requires DOD and VA, not later than July 1, 2008, and updated at least annually, to develop and implement a comprehensive policy on the care and management of covered servicemembers. The Secretaries are to consult with heads of other relevant federal departments and agencies, and to consider the recommendations of a number of listed studies, reviews, reports, and evaluations. The policy shall address care and management, medical and disability evaluation, return to duty when appropriate, and transition from DOD to VA. Requires the development, in policy, of uniform standards, among the military departments and with the VA, for the training and skills of health care professionals, recovery care coordinators, medical care case managers, and non-medical care managers for recovering servicemembers. Requires the development of *comprehensive recovery plans*, and the assignment of a *Recovery Care Coordinator*, for each recovering servicemember. Special attention is to be paid to recognizing early warning signs of post-traumatic stress disorder (PTSD) and suicide, and managing these conditions. The policy is to address several additional aspects of access to health care and other assistance, including waiting times, patient tracking, family support, and others.

Sec. 1612. Medical and Disability Evaluations. Requires DOD to develop uniform standards and procedures for disability evaluations of recovering servicemembers across military departments. Requires the Secretaries of DOD and VA to report to Congress on the feasibility and advisability of combining the two departments' disability evaluation systems.³

Sec. 1613. Return to Active Duty. Requires DOD to establish standards for determinations by the military departments on the return of recovering servicemembers to active duty.

Sec. 1614. Transition from DOD to VA Care. By July 1, 2008, DOD and the VA are jointly to develop and implement detailed procedures and standards for servicemembers in their transition from health care and treatment provided by DOD to health care, treatment, and rehabilitation provided by the VA. Procedures and standards are to address, among other things, patient tracking, enrollment for benefits, and training and deployment of personnel.

³ For more information regarding the DOD and VA disability evaluation processes, see CRS Report RL33991, *Disability Evaluation of Military Servicemembers*, by Christine Scott and Sidath Viranga Panangala (Domestic Social Policy Division) and Charles A. Henning (Foreign Affairs, Defense, and Trade Division).

Sec. 1615. Reports. Requires the Secretaries of DOD and VA jointly to report to Congress on the status of certain requirements in Section 1611, namely the policy to improve the care, management, and transition of recovering servicemembers; the review of current policies and procedures; and the review of the recommendations of a number of studies, reviews, reports, and evaluations listed in Section 1611. Requires the Comptroller General, within six months of enactment and annually through 2010, to report to Congress regarding implementation of the policy required in Section 1611. Requires the Secretary of Defense, not later than February 1, 2009, to report to Congress on the number of instances between October 7, 2001, and September 30, 2006, in which a disability rating assigned to a member of the Armed Forces by an informal DOD physical evaluation board was reduced upon appeal, and the reasons for such reduction.

Sec. 1616. Wounded Warrior Resource Center. Requires the Secretary of Defense to establish a wounded warrior resource center to provide wounded warriors, their families, and their primary caregivers with a single point of contact for assistance with reporting deficiencies in covered military facilities, obtaining health care services, receiving benefits information, and any other difficulties encountered while supporting wounded warriors. (See also the reporting requirement in Section 1648.)

Sec. 1617. Congressional Notification of Combat Wounded. Requires DOD to notify appropriate congressional offices of hospitalization of servicemembers evacuated from a theater of combat. Consent of the servicemember is required.

Sec. 1618. Comprehensive TBI/PTSD Plan. Requires the Secretaries of DOD and VA to conduct joint planning for the prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury (TBI), PTSD, and other mental health conditions in members of the Armed Forces, including planning for the seamless transition of such members to veteran status. Twelve required planning elements are specified, including designation of a lead agent to develop and coordinate the plan, development of screening protocols, and other matters. The required plan shall include a program whereby all servicemembers who incur TBI or PTSD while on active duty receive the highest quality, evidence-based treatment and rehabilitation.

Subtitle B: Centers of Excellence

This subtitle requires the Secretary of Defense to establish three centers of excellence, addressing TBI, PTSD, and military eye injuries, respectively. In establishing each center, the Secretary is to collaborate with the Department of Veterans Affairs, institutions of higher education, and other appropriate public and private entities, including international entities. The TBI and PTSD Centers are required, among other things, to implement the comprehensive TBI/PTSD plan developed pursuant to Section 1618 of this act. The Center of Excellence for Military Eye Injuries is required, among other things, to implement a comprehensive plan and strategy for a DOD “Military Eye Injury Registry” regarding the diagnosis, treatment, and follow up of significant eye injuries (defined) incurred by a servicemember while on active duty. The Secretary of Defense is required, within

180 days of enactment, and annually thereafter, to report to Congress regarding each center, its activities, and its progress in discharging its responsibilities.

Subtitle C: Health Care Matters

Sec. 1631. Medical Care and Other Benefits. Former servicemembers with serious injuries or illnesses may receive medical and dental care from DOD if care is not “reasonably available” from the VA. DOD is not authorized to provide such care after December 31, 2012, if such care had not been provided to a former servicemember prior to that date.

Sec. 1632. Reimbursement of Travel Expenses. Requires the Secretaries of the military services to establish outreach programs to ensure that retired servicemembers with a combat-related disability receive travel reimbursements for which they are eligible, for specialty care, services, or supplies related to a combat-related disability.

Sec. 1633. Respite Care and Other Extended Care Benefits. Requires the Secretary of Defense to make servicemembers who incur a serious injury or illness on active duty eligible for the respite care and aid and personal attendant benefits comparable to those currently provided in the Tricare Extended Care Health Option. Requires the Secretary to prescribe in regulations the individuals who shall be considered as the primary caregivers of the servicemember, and the definition of serious injury or illness.

Sec. 1634. Reports. Requires the Secretary of Defense, within 90 days of enactment, to report to Congress regarding the implementation of provisions in the FY2007 Defense authorization relating to a longitudinal study on TBI incurred by servicemembers in Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF), and pilot projects on early diagnosis and treatment of PTSD and other mental health conditions. Requires the Secretary, not later than March 1, 2008, and each year thereafter through 2013, to report to Congress regarding funding for the preceding year for activities relating to the improved diagnosis, treatment, and rehabilitation of servicemembers with TBI or PTSD.

Sec. 1635. Interoperable Electronic Health Information. Requires DOD and VA jointly to develop and implement a system of electronic health records that allows for full interoperability of personal health care information between the two departments. Establishes an interagency program office to act as a single point of accountability for the departments, and to implement, not later than September 30, 2009, the required system of records. Establishes leadership, membership, staffing, funding, reporting requirements, and other matters regarding the office. The system of records shall be developed in coordination with the Office of the National Coordinator for Health Information Technology, in the Department of Health and Human Services.

The office shall develop, and prepare for deployment, a joint electronic health record to be used by both departments in the provision of medical care and treatment to members of the Armed Forces and veterans, in compliance with applicable federal interoperability standards, implementation specifications, and certification criteria

(including for the reporting of quality measures). Requires the Secretaries of Defense and Veterans Affairs, within 30 days of enactment, to establish a schedule and benchmarks for implementing the required interoperable system of records. Authorizes the Secretaries to conduct pilot projects to assess the technical feasibility of various approaches, consistent with privacy regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note). Requires the Comptroller General, within six months of enactment and every six months thereafter until completion of implementation, to report to Congress regarding progress in implementing the required system of records.

Sec. 1636. Enhanced DOD Personnel Authorities. Authorizes the Secretary of Defense, until September 30, 2010, to exercise authorities for the appointment and pay of health care personnel that are currently available to the Secretary of Veterans Affairs for the purposes of recruitment, employment, and retention of civilian health care professionals.⁴ Requires the Secretaries of the military services to each develop and implement a strategy to disseminate, among appropriate personnel of the military departments, information about authorities and best practices for the recruitment of medical and health professionals.

Sec. 1637. Continuation of Transitional Health Benefits. Authorizes DOD to provide transitional medical and dental care benefits to servicemembers with service-connected medical conditions beyond the existing 180-day transition period. The care is for service-connected conditions only.

Subtitle D: Disability Matters

Sec. 1641. Presumption of Sound Condition. Servicemembers with a disability are presumed to have suffered such disability in connection with military service if they had been on active duty for six months or more, and if the disability was not noted at the time of entrance into active duty.

Sec. 1642. DOD Determinations of Disability. Requires the Secretaries of the military services to use the VASRD to the extent feasible in making a determination of disability of a member of the armed services. The Secretaries may not deviate from the schedule or any such interpretation of the schedule, unless they use alternate criteria that the Secretaries of DOD and VA jointly may prescribe for purposes of this subsection, if using such criteria will result in a determination of a greater percentage of disability than would be otherwise determined by using the schedule. In rating the disability of servicemembers, the Secretaries shall consider all medical conditions, whether individually or collectively, that render the servicemember unfit to perform the duties of his or her office, grade, rank, or rating.

Sec. 1643. Review of Separations Less than 30% Disabled. Requires the Secretary of Defense to establish a “Physical Disability Board of Review” to

⁴ Pursuant to 38 U.S.C., Chapter 74, VA has special authorities for recruiting and retaining certain categories of health professionals. These authorities include providing advance payments, recruitment or relocation bonuses, retention allowances, and pay adjustments based on market rates and performance.

review the disability determinations of covered individuals by Physical Evaluation Boards (PEBs). *Covered individuals* are members and former members of the Armed Forces who, during the period beginning on September 11, 2001, and ending on December 31, 2009 (1) are separated from the Armed Forces because of unfitness for duty due to a medical condition with a disability rating of 20% disabled or less, and (2) are found to be not eligible for retirement. Upon the request of a covered individual, or a surviving spouse, next of kin, or legal representative, or upon its own motion, the review board is to review the findings and decisions of the PEB with respect to such individuals and make appropriate recommendations with respect to the disability ratings of servicemembers and former servicemembers.

Sec. 1644. Disability Evaluation Pilot Programs. Authorizes the Secretary of Defense, in consultation with VA, to carry out pilot programs with respect to the DOD disability evaluation system, in order to reduce processing times, identify statutory or administrative improvements, and improve consistency in evaluations, among other things. Pilot programs must be completed within one year of their commencement. Requires the Secretary of Defense to provide periodic reports to Congress regarding the implementation of pilot programs. Authorized pilot programs are as follows:

- Disability determinations by DOD using VA-assigned disability ratings: Upon a determination by the DOD (the Secretary of the relevant service branch) that the servicemember is unfit for duty, the VA may conduct an evaluation of the member for physical disability and assign the member a rating of disability, using the VASRD, based on all medical conditions that render the member unfit for duty, and DOD may make the determination of disability regarding the member using the rating of disability assigned by the VA.
- Disability determinations using joint DOD/VA-assigned disability ratings: Upon a determination by the DOD (the Secretary of the relevant service branch) that the member is unfit for duty, the relevant Secretary may: provide for the joint DOD/VA evaluation of the member for disability, including the assignment of a rating, using the VASRD, based on all medical conditions (whether individually or collectively) that render the member unfit for duty, and make the determination of disability regarding the member using the rating assigned in this manner.
- Authorizes DOD to establish an electronic information clearinghouse regarding disability, for use by participating servicemembers.

Sec. 1645. Reports on Army Plan Regarding Disability Evaluation. Requires the Secretary of Defense to report on the implementation of corrective measures by DOD with respect to the Physical Disability Evaluation System (PDES) in response to recommendations in the following reports: (1) the report of the Inspector General of the Army on the PDES of March 6, 2007; (2) the report of the Independent Review Group on Rehabilitation Care and Administrative Processes at Walter Reed Army Medical Center (WRAMC) and National Naval Medical Center;

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

Each report shall include current information on the total number of cases, and the number of cases involving combat disabled servicemembers, 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. In addition, each report shall include current information on the status of the implementation of modifications to disability evaluation processes of the DOD in response to recommendations in the reports listed in the previous paragraph. The Secretary shall, within 24 hours, post each report required by this section on a publicly available DOD Internet website.

Sec. 1646. Disability Severance Pay. Changes the maximum number of years of service for computing disability severance pay from 12 years to 19 years, and discontinues the deduction (offset) of disability severance pay from disability compensation from the VA. (Previously, a veteran's disability compensation from the VA was fully offset for the amount of disability severance pay).

Sec. 1647. Assessments of the TDRL. Requires the Secretary of Defense to report to Congress regarding (1) a statistical history, since January 1, 2000, of the numbers of servicemembers who are returned to duty or separated following a tenure on the temporary disability retired list (TDRL) and, in the case of members who were separated, how many were granted disability separation or retirement, and their disability ratings; (2) the results of certain required assessments regarding the utility of the TDRL, and its current and future implementation; and (3) such recommendations for the modification or improvement of the TDRL as the Secretary considers appropriate in response to the assessments.

Sec. 1648. Standards and Reports for MTFs. Requires the Secretary of Defense to establish standards for MTFs, and deadlines for compliance, in regard to appearance, maintenance and operations, compliance with the Americans with Disabilities Act of 1990, and such other matters relating to the appearance, size, operation, and maintenance of facilities as the Secretary considers appropriate.

Sec. 1649. Reports on WRAMC. Requires the Secretary of Defense to report regularly to Congress, beginning in February 2008, on the implementation of the Army Medical Action Plan to correct deficiencies identified in the condition of facilities and patient administration at WRAMC.⁵

⁵ The Army Medical Action Plan was developed as a result of critical media scrutiny of soldier care at WRAMC and other Army medical facilities, and is a comprehensive Army-wide plan to improve aspects of medical care and support for injured servicemembers. For more information, see testimony of Brigadier General Sheila Baxter, hearing regarding "Mental Health Concerns of Veterans," U.S. Senate, Committee on Veterans Affairs, 11th Cong., 1st Sess., August 17, 2007.

Sec. 1650. Required Certifications Regarding WRAMC. In implementing the decision to close WRAMC, the Secretary of Defense shall submit to Congress a certification that (1) a transition plan has been developed, and resources have been committed, to ensure that patient care services, medical operations, and facilities are sustained at the highest possible level at WRAMC until replacement facilities are staffed and ready to assume at least the same level of care; (2) the closure of WRAMC will not result in a net loss of capacity in the major medical centers in the National Capitol Region in terms of total bed capacity or staffed bed capacity; and (3) the capacity of medical hold and outpatient lodging facilities operating at WRAMC as of the date of the certification will be available in sufficient quantities at designated replacement facilities by the date of the closure of WRAMC.

Sec. 1651. Compensation and Benefits Handbook. Requires the Secretary of Defense to 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 separation or retirement as a result of a serious injury or illness. The handbook will be available to servicemembers and next of kin, and its electronic form will be updated at least annually.

Subtitle E: Studies and Reports

Sec. 1661. Study on Readjustment Needs. Requires DOD, in consultation with the National Academy of Sciences, to prepare a study on the physical and mental health of servicemembers who deployed to combat operations in Iraq and Afghanistan.

Sec. 1662. Access to Adequate Outpatient Residential Facilities. Facilities occupied by recovering servicemembers shall be inspected semiannually for the first two years after enactment, and annually thereafter.

Sec. 1663. Study and Report on Support Services. Requires the Secretary of Defense to conduct a study of the provision of support services for families of recovering servicemembers, and to report to Congress on the findings of such study within 180 days of enactment.

Sec. 1664. Report on TBI Classifications. Requires the Secretaries of DOD and VA, within 90 days of enactment, jointly to submit to Congress a report describing the changes undertaken within the two departments to ensure that TBI victims receive a medical designation that clearly identifies TBI as a specific disease condition, rather than a generic classification (such as “organic psychiatric disorder”).

Sec. 1665. Program Evaluation. Requires the DOD to conduct an evaluation of specific aspects of the Polytrauma Liaison Officer/Non-Commissioned Officer program, which is the program operated by each of the military departments and the VA for the purpose of (1) assisting in the seamless transition of servicemembers from DOD to VA health care systems, and (2) expediting the flow of information and communication between MTFs and VA Polytrauma Centers.

DOD shall report to Congress on the findings of such evaluation, and any recommendations, within 90 days of enactment.

Subtitle F: Other Matters

Sec. 1671. Prohibition on Transfer of Resources from Medical Care.

Prohibits the Secretary of Defense and the Secretaries of the military departments from transferring funds or personnel from medical care functions to administrative functions within DOD in order to comply with the new administrative requirements imposed or the amendments made by this title.

Sec. 1672. Medical Care for Families. Authorizes medical care at MTFs, on a space-available basis, for family members of a recovering servicemember who are on invitational orders or receiving per diem payments while caring for the servicemember.

Sec. 1673. Deployment Assessments of Cognitive Function.

Requires DOD to incorporate an assessment of PTSD in its pre- and post-deployment medical examination of servicemembers deployed overseas. To support this requirement and a preexisting requirement regarding TBI, DOD is required to develop a protocol for the pre-deployment assessment and documentation of cognitive function, including memory. DOD is required to conduct relevant pilot programs, and to report to Congress on their implementation. Also, DOD is required to ensure the quality of such pre- and post-deployment assessments, and to prescribe in regulations minimal health standards for deployment regarding TBI.

Sec. 1674. Guaranteed Funding for WRAMC. Requires that funding of WRAMC for a given fiscal year shall not be less than the FY2006 amount, until the Secretary of Defense submits to Congress a plan for the provision of health care for military beneficiaries and their dependents in the National Capital Region. Such plan shall, at a minimum, include (1) the manner in which patients, staff, bed capacity, and functions will move from WRAMC to expanded facilities; (2) a timeline and milestones for such moves; (3) projected budgets, including budget transfers, for MTFs within the region; (4) the management or disposition of MTF properties within the region; and (5) staffing projections for the region. After submission of such plan, the Secretary shall certify to Congress on a quarterly basis that patients, staff, bed capacity, functions, or parts of functions at WRAMC have not been moved or disestablished until the expanded facilities elsewhere in the region are completed, equipped, and staffed with sufficient capacity to accept and provide, at a minimum, the same level of and access to care that patients received at WRAMC during FY2006.

Sec. 1675. Use of Federal Leave Transfer Program. Eliminates, for federal civilian employees who sustained a combat-related disability for which they are undergoing medical treatment, the requirement that they exhaust annual and sick leave before any transferred (donated) annual leave may be used. This provision is in effect only while the servicemember is receiving medical treatment for the combat-related disability, and only for a maximum of five years from the beginning of treatment. This provision is effective upon enactment.

Sec. 1676. Moratorium on Contractor Conversions at MTFs.⁶

Requires the Secretary of Defense to meet certain criteria before the announcement or conduct of an OMB Circular A-76 study pursuant to 10 U.S.C. 2461 (regarding public-private competition required before conversion to contractor performance) for any study carried out at an MTF. These criteria include certifying to Congress that appropriate steps have been taken to ensure that neither the quality of military medical care nor the availability of qualified personnel will be adversely affected by the competition process, or by the conversion to performance by a contractor; reporting to Congress within 180 days of enactment on certain data regarding each public-private competition; and performing an assessment of whether other types of business reform or reengineering methods might in the future achieve any anticipated or budgeted savings rather than through a public-private competition.⁷

Title XVII: Veterans Matters

Title XVII includes several provisions that have an impact on programs administered by the VA. A majority of these provisions are focused on improving health care services for those with TBI. Following is a summary of each of these provisions.

Sec. 1701. Sense of Congress. Expresses the sense of Congress, recognizing that VA is a leader in the field of TBI care, and also acknowledges that DOD and VA have made efforts to provide a smooth transition of medical care and rehabilitative services to servicemembers as they transition from the DOD health care system to that of the VA. However, it is the sense of Congress that more can be done to assist veterans and their families in the continuum of the rehabilitation, recovery, and reintegration of wounded or injured servicemembers and veterans into their communities.

Sec. 1702. TBI Rehabilitation and Reintegration Plans. Amends 38 U.S.C., Chapter 17, and adds a new section. It requires the VA Secretary to develop an individualized plan for rehabilitation and reintegration into the community for each veteran or servicemember who receives inpatient or outpatient care at the VA for TBI. This plan must be provided in writing to each veteran or servicemember before such individual is discharged from inpatient care at a VA medical facility, or as soon as practicable following a diagnosis of TBI by the VA. It requires that each individualized plan for rehabilitation include (1) rehabilitation objectives for improving the physical, cognitive, and vocational functioning of a veteran or servicemember with a TBI in order that such individual regain independence and reintegrate into the community; (2) access, as needed, to all appropriate rehabilitative components of the TBI continuum of care; (3) a description of specific rehabilitative treatments and other services, to include the type, frequency, duration, and location

⁶ This information provided by Valerie Bailey Grasso, Foreign Affairs, Defense, and Trade Division.

⁷ For more information, see CRS Report RL34140, *Walter Reed Army Medical Center (WRAMC) and Office of Management and Budget (OMB) Circular A-76: Implications for the Future*, by Valerie Bailey Grasso.

of such treatments and services; (4) the name of the designated case manager responsible for the implementation of the individualized plan; and (5) the dates on which the effectiveness of the plan will be reviewed.

Requires the VA Secretary to develop the individualized plan based on a comprehensive assessment of the physical, cognitive, vocational, neuropsychological and social impairments of the veteran or servicemember. The assessment must also take into consideration the family education and family support needs of such individual after discharge from inpatient care. The assessment will be performed by a team of individuals, with relevant expertise as stipulated in this section.

Requires the VA Secretary to assign a case manager for each veteran or servicemember with a TBI. The case manager will be responsible for the implementation of the individualized plan, and the coordination of care. The Secretary must ensure that such case manager has specific expertise, either through experience, education, or training, in the care required by the individual to whom such case manager is assigned.

Requires the VA Secretary, to the maximum extent practicable, to involve the family members or legal guardian of the veteran or servicemember with a TBI in developing the individualized plan. It also requires the Secretary to collaborate with a state protection and advocacy system if the veteran or servicemember covered by such plan requests such collaboration, or, in the event that the individual is incapacitated, the family or guardian of the servicemember or veteran requests collaboration. In the event that the servicemember is still on active duty, the VA must collaborate with DOD in developing the individualized plan for rehabilitation and reintegration.

Requires the VA Secretary to periodically review the effectiveness of each individualized plan and refine it as appropriate after such review. Moreover, the Secretary is required to review the individualized plan at the request of the veteran with a TBI or in the case of a veteran or servicemember who is incapacitated, at the request of the guardian or designee of the veteran.

Sec. 1703. Use of Non-VA Facilities for TBI. Amends 38 U.S.C., Chapter 17, and adds a new section. It authorizes the VA, at its discretion, to provide hospital care and medical services through appropriate public or private entities to veterans and servicemembers who receive TBI care from the VA. Such care in non-VA facilities may be authorized if the VA is unable to provide care at the frequency or duration prescribed in the individualized plan, for rehabilitation and reintegration.

Sec. 1704. TBI Research, Education, and Clinical Care. Amends 38 U.S.C., Chapter 17, Subchapter II. Requires the VA to conduct research on mild to severe forms of TBI; visually related neurological conditions; means of improving the diagnosis, rehabilitative treatment, and prevention of TBI; and dual diagnosis of PTSD and TBI, among other conditions. Requires the VA to collaborate on this research with the Defense and Veterans Brain Injury Center (DVBIC) and other relevant programs of the federal government. Requires the Secretary to conduct educational programs on recognizing and diagnosing mild and moderate cases of TBI. Moreover, this section requires the VA to establish a TBI registry to be known

as the “Traumatic Brain Injury Veterans Health Registry.” When possible, the VA Secretary must notify each individual listed in the registry of significant developments in research on the health consequences of military service in OIF and OEF theaters of operations.

Sec. 1705. TBI Pilot Program on Assisted-living Services. This section requires the VA Secretary to implement, within 90 days of enactment, a five-year pilot program to assess the effectiveness of providing assisted-living services to eligible veterans to enhance the rehabilitation, quality of life, and community integration of such veterans. The pilot program must be carried out in locations selected by the Secretary. However, at least one program must be located in a Veterans Integrated Service Network (VISN) that has a VA polytrauma center. Other locations must be in areas that contain high concentrations of veterans with TBI. The Secretary must also give special consideration to rural areas when selecting program locations.

Authorizes the Secretary to enter into agreements for the provision of assisted living services with a provider participating in Medicaid (42 U.S.C. 1396 et seq.). Such assisted living facilities must meet standards prescribed by the Secretary for the purposes of the pilot program. Requires the Secretary to continue to provide case management services for veterans participating in the pilot program. Requires the Secretary to submit a report on the pilot program to the House and Senate Veterans’ Affairs Committees not less than 60 days after the completion of the pilot program. The report must include information about the program, utility of the program, and recommendations regarding the extension or expansion of the program.

Sec. 1706. Provision of Age-appropriate Nursing Home Care. Amends 38 U.S.C. 1710A and adds a new provision that requires the Secretary to provide age-appropriate nursing home care.

Sec. 1707. Extension of Period of Eligibility. This section extends from two to five years the period of automatic eligibility for VA health care, for veterans who served in a combat theater of operations and are discharged or released five years before the date of enactment of this Act. For those veterans who served in a combat theater of operations after November 11, 1998, but more than five years before the date of enactment of this act, and have not enrolled in the VA health care system, the period of automatic eligibility will be three years.

Sec. 1708. Mental Health Service-connection. Amends 38 U.S.C. 1702 that pertains to presumption of service-connection, and inserts the term “mental illness” instead of “psychosis.” Requires the Secretary to provide a veteran who served in a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities after November 11, 1998, a preliminary mental health evaluation as soon as practicable, but not later than 30 days after a request for such evaluation.

Sec. 1709. Modification Regarding Outpatient Dental Services. Amends 38 U.S.C. 1712 and extends from 90 days to 180 days after discharge or release, the eligibility for outpatient dental treatment for a veteran with service-connected dental conditions or disabilities who served on active duty.

Sec. 1710. Clarification Regarding Outreach Services. Amends 38 U.S.C. 6301 to include National Guard and Reserve components among those who are eligible for VA outreach services. Defines the term “outreach” as the act or process of reaching out in a systematic manner proactively to provide information, services, and benefits counseling to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive benefits under the laws administered by the Secretary, to ensure that such individuals are fully informed about, and assisted in applying for, any benefits.

Sec. 1711. Designation of Fiduciary or Trustee. Amends 38 U.S.C. 1980A, and provides for the designation of a fiduciary or trustee for benefits under the Traumatic Servicemembers’ Group Life Insurance (TSGLI) for servicemembers who are medically incapacitated.⁸

⁸ Traumatic Servicemembers’ Group Life Insurance is a traumatic injury protection rider under Servicemembers’ Group Life Insurance (SGLI) that provides for a payment to members of the armed services covered by SGLI who sustain a traumatic injury that results in certain severe losses.