112TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
112–235

VETERANS SEXUAL ASSAULT PREVENTION AND HEALTH CARE ENHANCEMENT ACT

OCTOBER 5, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MILLER of Florida, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany H.R. 2074]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2074) to amend title 38, United States Code, to require a comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents that occur at medical facilities of the Department of Veterans Affairs, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

CONTENTS

19–006

AMENDMENT

The amendments are as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Sexual Assault Prevention and Health Care Enhancement Act".

SEC. 2. COMPREHENSIVE POLICY ON REPORTING AND TRACKING SEXUAL ASSAULT INCIDENTS AND OTHER SAFETY INCIDENTS.

(a) POLICY.—Subchapter I of chapter 17 of title 38, United States Code, is amended by adding at the end the following:

"§ 1709. Comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents

"(a) POLICY REQUIRED.—Not later than March 1, 2012, the Secretary of Veterans Affairs shall develop and implement a centralized and comprehensive policy on the reporting and tracking of sexual assault incidents and other safety incidents that occur at each medical facility of the Department, including—

"(1) suspected, alleged, attempted, or confirmed cases of sexual assault, regardless of whether such assaults lead to prosecution or conviction;

"(2) criminal and purposefully unsafe acts;

"(3) alcohol or substance abuse related acts (including by employees of the Department); and

"(4) any kind of event involving alleged or suspected abuse of a patient.

"(b) SCOPE.—The policy required by subsection (a) shall cover each of the following:

"(1) For purposes of reporting and tracking sexual assault incidents and other safety incidents, definitions of the terms—

"(A) 'safety incident';

"(B) 'sexual assault'; and

"(C) 'sexual assault incident'.

"(2) The development and use of specific risk-assessment tools to examine any risks related to sexual assault that a veteran may pose while being treated at a medical facility of the Department, including clear and consistent guidance on the collection of information related to—

"(A) the legal history of the veteran; and

"(B) the medical record of the veteran.

"(3) The mandatory training of employees of the Department on security issues, including awareness, preparedness, precautions, and police assistance.

"(4) The mandatory implementation, use, and regular testing of appropriate physical security precautions and equipment, including surveillance camera systems, computer-based panic alarm systems, stationary panic alarms, and electronic portable personal panic alarms.

"(5) Clear, consistent, and comprehensive criteria and guidance with respect to an employee of the Department communicating and reporting sexual assault incidents and other safety incidents to—

"(A) supervisory personnel of the employee at—

"(i) a medical facility of the Department;

"(ii) an office of a Veterans Integrated Service Network; and

"(iii) the central office of the Veterans Health Administration; and

"(B) a law enforcement official of the Department.

"(6) Clear and consistent criteria and guidelines with respect to an employee of the Department referring and reporting to the Office of Inspector General of the Department sexual assault incidents and other safety incidents that meet the regulatory criminal threshold in accordance with section 1.201 and 1.204 of title 38, Code of Federal Regulations.

"(7) An accountable oversight system within the Veterans Health Administration that includes—

"(A) systematic information sharing of reported sexual assault incidents and other safety incidents among officials of the Administration who have programmatic responsibility; and

"(B) a centralized reporting, tracking, and monitoring system for such incidents.

"(8) Consistent procedures and systems for law enforcement officials of the Department with respect to investigating, tracking, and closing reported sexual assault incidents and other safety incidents.

"(9) Clear and consistent guidance for the clinical management of the treatment of sexual assaults that are reported more than 72 hours after the assault.

"(c) UPDATES TO POLICY.—The Secretary shall review and revise the policy required by subsection (a) on a periodic basis as the Secretary considers appropriate and in accordance with best practices.

"(d) ANNUAL REPORT.—(1) Not later than 60 days after the date on which the Secretary develops the policy required by subsection (a), and by not later than October 1 of each year thereafter, the Secretary shall submit to the Committee on Veterans' Affairs of the House of Representatives and the Committee on Veterans' Affairs of the Senate a report on the implementation of the policy.

"(2) The report under paragraph (1) shall include—

"(A) the number and type of sexual assault incidents and other safety incidents reported by each medical facility of the Department;

"(B) a detailed description of the implementation of the policy required by subsection (a), including any revisions made to such policy from the previous year; and

"(C) the effectiveness of such policy on improving the safety and security of the medical facilities of the Department, including the performance measures used to evaluate such effectiveness.

"(e) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1708 the following:

"1709. Comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents.".

(c) INTERIM REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the House of Representatives and the Committee on Veterans' Affairs of the Senate a report on the development of the performance measures described in section 1709(d)(2)(C) of title 38, United States Code, as added by subsection (a).

SEC. 3. INCREASED FLEXIBILITY IN ESTABLISHING PAYMENT RATES FOR NURSING HOME CARE PROVIDED BY STATE HOMES.

(a) IN GENERAL.—Section 1745(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking "The Secretary shall pay each State home for nursing home care at the rate determined under paragraph (2)" and inserting "The Secretary shall enter into a contract (or agreement under section 1720(c)(1) of this title) with each State home for payment by the Secretary for nursing home care provided in the home"; and

(2) by striking paragraph (2) and inserting the following new paragraph (2):

"(2) Payment under each contract (or agreement) between the Secretary and a State home under paragraph (1) shall be based on a methodology, developed by the Secretary in consultation with the State home, to adequately reimburse the State home for the care provided by the State home under the contract (or agreement).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to care provided on or after January 1, 2012.

SEC. 4. REHABILITATIVE SERVICES FOR VETERANS WITH TRAUMATIC BRAIN INJURY.

(a) REHABILITATION PLANS AND SERVICES.—Section 1710C of title 38, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon the following: "with the goal of maximizing the individual's independence";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "(and sustaining improvement in)" after "improving";

(ii) by inserting "behavioral," after "cognitive,";

(B) in paragraph (2), by inserting "rehabilitative services and" before "rehabilitative components"; and

(C) in paragraph (3)—

(i) by striking "treatments" the first place it appears and inserting "services"; and

(ii) by striking "treatments and" the second place it appears; and

(3) by adding at the end the following new subsection:

"(h) REHABILITATIVE SERVICES DEFINED.—For purposes of this section, and sections 1710D and 1710E of this title, the term 'rehabilitative services' includes—

"(1) rehabilitative services, as defined in section 1701 of this title;

"(2) treatment and services (which may be of ongoing duration) to sustain, and prevent loss of, functional gains that have been achieved; and

"(3) any other rehabilitative services or supports that may contribute to maximizing an individual's independence."

(b) REHABILITATION SERVICES IN COMPREHENSIVE PROGRAM FOR LONG-TERM REHABILITATION.—Section 1710D(a) of title 38, United States Code, is amended—

(1) by inserting "and rehabilitative services (as defined in section 1710C of this title)" after "long-term care"; and

(2) by striking "treatment".

(c) REHABILITATION SERVICES IN AUTHORITY FOR COOPERATIVE AGREEMENTS FOR USE OF NON-DEPARTMENT FACILITIES FOR REHABILITATION.—Section 1710E(a) of title 38, United States Code, is amended by inserting ", including rehabilitative services (as defined in section 1710C of this title)," after "medical services".

(d) TECHNICAL AMENDMENT.—Section 1710C(c)(2)(S) of title 38, United States Code, is amended by striking "opthamologist" and inserting "ophthalmologist".

SEC. 5. USE OF SERVICE DOGS ON PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS.

Section 901 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f) The Secretary may not prohibit the use of service dogs in any facility or on any property of the Department or in any facility or on any property that receives funding from the Secretary.".

SEC. 6. DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM ON DOG TRAINING THERAPY.

(a) IN GENERAL.—Commencing not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall implement a three-year pilot program for the purpose of assessing the effectiveness of using dog training activities as a component of integrated post-deployment mental health and post-traumatic stress disorder rehabilitation programs at Department of Veterans Affairs medical centers to positively affect veterans with post-deployment mental health conditions and post-traumatic stress disorder symptoms and to produce specially trained dogs that meet criteria for becoming service dogs for veterans with disabilities.

(b) LOCATION OF PILOT PROGRAM.—The pilot program shall be carried out at between one and three Department of Veterans Affairs medical centers selected by the Secretary for such purpose. In selecting medical centers for the pilot program, the Secretary shall—

(1) ensure that each medical center selected—

(A) has an established mental health rehabilitation program that includes a clinical focus on rehabilitation treatment of post-deployment mental health conditions and post-traumatic stress disorder; and

(B) has a demonstrated capability and capacity to incorporate service dog training activities into the rehabilitation program; and

(2) shall review and consider using recommendations published by Assistance Dogs International, International Guide Dog Federation, or comparably recognized experts in the art and science of basic dog training with regard to space, equipments, and methodologies.

(c) DESIGN OF PILOT PROGRAM.—In carrying out the pilot program, the Secretary shall—

(1) administer the program through the Department of Veterans Affairs Patient Care Services Office as a collaborative effort between the Rehabilitation Office and the Office of Mental Health Services;

(2) ensure that the national pilot program lead of the Patient Care Services Office has sufficient administrative experience to oversee all pilot program sites;

(3) establish partnerships through memorandums of understanding with Assistance Dog International organizations, International Guide Dog Federation organizations, academic affiliates, or organizations with equivalent credentials with experience in teaching others to train service dogs for the purpose of advising the Department of Veterans Affairs regarding the design, development, and implementation of pilot program;

(4) ensure that each pilot program site has obtained a service dog training instructor certified by Assistance Dog International, International Guide Dog Federation, or an organization with equivalent credentials to oversee service dog training activities;

(5) ensure that dogs selected for use in the program meet all health clearance, age, and temperament criteria as outlined by Assistance Dog International, International Guide Dog Federation, or an organization with equivalent credentials and the Centers for Disease Control and Prevention;

(6) consider dogs residing in animal shelters or foster homes for participation in the program if such dogs meet the selection criteria under this subsection; and

(7) ensure that each dog selected for the program is taught all basic commands and behaviors essential to being accepted by an accredited service dog training organization to be partnered with a disabled veteran for final individualized service dog training tailored to meet the needs of the veteran.

(d) VETERAN PARTICIPATION.—A veteran diagnosed with post-traumatic stress disorder or another post-deployment mental health condition may volunteer to participate in the pilot program required by subsection (a) and may participate in the program if the Secretary determines that adequate program resources are available for such veteran to participate at the pilot program site.

(e) HIRING PREFERENCE.—In selecting service dog training instructors for the pilot program, the Secretary shall give a preference to a veteran who successfully completed a post-traumatic stress disorder or other residential treatment program and who has received certification in service dog training from an Assistance Dog International or International Guide Dog Federation accredited program.

(f) COLLECTION OF DATA.—The Secretary shall collect data on the pilot program to determine the effectiveness of the program in positively affecting veterans with post-traumatic stress disorder or other post-deployment mental health conditions and the potential for expanding the program to additional Department of Veterans Affairs medical centers. Such data shall be collected and analyzed using valid and reliable methodologies and instruments.

(g) REPORTS TO CONGRESS.—

(1) ANNUAL REPORTS.—Not later than one year after the date of the commencement of the pilot program, and annually thereafter for the duration of the pilot program, the Secretary shall submit to Congress a report on the pilot program. Each such report shall include—

(A) the number of veterans participating in the pilot program;

(B) a description of the services carried out by the Secretary under the pilot program;

(C) the effects that participating in the pilot program has on veterans with post-traumatic stress disorder and post-deployment mental health conditions;

(2) FINAL REPORT.—At the conclusion of pilot program, the Secretary shall submit to Congress a final report that includes recommendations with respect to the extension or expansion of the pilot program.

(h) DEFINITION.—For the purposes of this section, the term "service dog training instructor" means an instructor recognized by an accredited dog organization training program who provides hands-on training in the art and science of service dog training and handling.

Amend the title so as to read:

A bill to amend title 38, United States Code, to require a comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents that occur at medical facilities of the Department of Veterans Affairs, to improve rehabilitative services for veterans with traumatic brain injury, and for other purposes.

PURPOSE AND SUMMARY

H.R. 2074, the Veterans Sexual Assault Prevention Act, was introduced by Representative Ann Marie Buerkle of New York, the Chairwoman of the Subcommittee on Health of the Committee on Veterans' Affairs, on June 1, 2011. In addition to H.R. 2074, the amended version of H.R. 2074 reflects the Committee's consideration of several bills introduced during the 112th Congress, including: H.R. 1855, the Veterans Traumatic Brain Injury Rehabilitative Services Act of 2011, introduced by the Honorable Timothy J. Walz of Minnesota; H.R. 2530, to amend title 38 United States Code (U.S.C.) to provide increased flexibility in establishing rates for reimbursement of State Homes by the Secretary of the Department of Veterans Affairs (VA) for nursing home care provided to veterans, introduced by the Honorable Michael Michaud of Maine; H.R. 1154, the Veterans Equal Treatment for Service Dogs (VETS Dogs) Act, introduced by the Honorable John Carter of Texas; and, H.R. 198, the Veterans Dog Training Therapy Act, introduced by the Honorable Michael Grimm of New York.

H.R. 2074, as amended, the Veterans Sexual Assault Prevention and Health Care Enhancement Act, would: (1) require VA to establish a comprehensive policy on the reporting and tracking of sexual assault and other safety incidents at VA medical facilities and require a report on said policy 60 days after initial implementation and annually thereafter; (2) require VA to enter into a contract or agreement with each State Veterans Home (SVH) for payment of nursing home care provided to veterans with a service-connected disability rated at 70 percent or greater or in need of such care because of a service-connected condition; (3) include the goal of maximizing independence and improving behavioral and mental health functioning within a program of individualized rehabilitation and reintegration for veterans with traumatic brain injury (TBI) and require rehabilitative services be included within VA comprehensive programs of long-term care for veterans with TBI; (4) clarify the access rights of service dogs on VA property and in VA facilities; and, (5) direct VA to carry out a three year pilot program in one to three VA medical centers (VAMCs) for the purpose of assessing the effectiveness of addressing post deployment mental health and post traumatic stress disorder (PTSD) symptoms through service dog training therapy.

BACKGROUND AND NEED FOR LEGISLATION

Section 2—Comprehensive policy regarding sexual assault and other safety incidents

VA operates inpatient mental health units in 111 VAMCs to provide intensive treatment to veterans with acute mental health needs. These are generally locked units with 24-hour supervision intended to stabilize mentally-ill veterans for transfer to less intensive levels of care. In some cases, the less intensive level of care may be a VA residential program. VA operates 237 residential programs in 104 VA medical facilities. Designated as residential rehabilitation treatment programs, domiciliary programs, or compensated work therapy/transitional residence programs, VA's residential programs provide rehabilitative and clinical care to veterans with a variety of mental health conditions.

Serious concerns about the safety of patients in VA residential programs were brought to the attention of the Government Accountability Office (GAO) during an investigation into services available to female veterans accessing VA health care. As a result of these concerns and at the request of Chairman Jeff Miller and Ranking Member Bob Filner, GAO initiated an investigation into sexual assault and other safety incidents at VA medical facilities. On June 7, 2011, GAO published the findings of that investigation in a report entitled, VA HEALTH CARE: Actions Needed to Prevent Sexual Assault and Other Safety Incidents, GAO–11–530.

In analyzing VA's national police files from January 2007 through July 2010, GAO identified 284 incidents of alleged sexual assault. Included in that total are 67 incidents of alleged rape, 185 incidents of alleged inappropriate touching, 8 incidents of alleged forceful medical examinations, 13 incidents of alleged forced or inappropriate oral sex, and 11 other alleged sexual assaults. There were 89 allegations of patient-on-patient sexual assaults, 85 allegations of patient-on-employee sexual assaults, 46 allegations of em-

ployee-on-patient sexual assaults, 28 allegations of persons-with-unknown-affiliation-on patient sexual assaults, 15 allegations of employee-on-employee sexual assaults, and 21 other allegations of sexual assault involving patients, employees, visitors, and outsiders.

GAO found that many of the sexual assault incidents reported to the VA police were not reported to VA leadership officials and/or the VA Office of the Inspector General (OIG), as required by VA regulation.

GAO identified several factors that contribute to the underreporting of sexual assault incidents including the lack of a: (1) consistent definition of sexual assault; (2) clear and comprehensive criteria for communicating and reporting sexual assault incidents at each level of VA leadership; (3) centralized reporting, tracking and monitoring system; (4) satisfactory and operable physical security precaution system; and, (5) proper and centralized VA leadership oversight mechanism.

To correct these deficiencies, GAO recommended VA improve the reporting and monitoring of sexual assault and other safety incidents and the tools used to identify risk and address vulnerabilities at VA facilities by: ensuring a consistent definition for reporting purposes; clarifying expectations about the reporting of sexual assault incidents; implementing a centralized tracking system to monitor sexual assault incidents; developing an automated mechanism within the VA police reporting system, establishing guidance on legal history discussions; ensuring effective panic alarm systems; and requiring stakeholder input on plans for new and renovated units and changes to physical security features in existing units.

Section 2 of the bill would address the safety vulnerabilities, security weaknesses, and oversight failures identified by GAO and result in a fundamentally safer VA health care system for VA patients and employees alike by requiring VA to establish a comprehensive policy on reporting and tracking sexual assault and other safety incidents at VA medical facilities by no later than March 1, 2012. It would mandate that the policy include the: (1) development of clear and comprehensive criteria with respect to the reporting of sexual assault incidents and other safety incidents for both clinical personnel and law enforcement personnel; (2) establishment of an accountable oversight system within VA to report and track sexual assault incidents for all alleged or suspected forms of abuse and unsafe acts; (3) systematic information sharing of reported sexual assault incidents, and a centralized reporting, tracking, and monitoring system to ensure each case is fully investigated and victims receive appropriate treatment; (4) use of specific "risk assessment tools" to examine any danger related to sexual assault that a veteran may pose while being treated, including clear guidance on the collection of information relating to the legal history of the veteran; (5) mandatory training of employees on safety awareness and security; and, (6) establishment of physical security precautions including appropriate surveillance and panic alarm systems that are operable and regularly tested. It would also require a report on said policy no later than 60 days after implementation and by October 1 of each subsequent year.

Section 3—Increased flexibility in establishing payment rates for nursing home care provided by State Veterans Homes

The Veterans Millennium Health Care and Benefits Act, Public Law (P.L.) 106–117, 113 Stat. 1545, requires VA to provide nursing home care to certain qualified veterans, including those veterans with a service-connected disability rated at 70 percent or greater or requiring nursing home care because of a service-connected condition.

The VA nursing home program provides institutional long term care for such qualified veterans in various settings including VA owned and operated Community Living Centers, contract purchased care in Community Nursing Homes, and State Veterans Homes (SVHs).

SVHs are characterized by a long-standing partnership between VA and the States to provide long-term care to veterans through a joint cost-sharing agreement. Veterans may choose to seek care in a SVH and, although VA may refer patients to SVHs, it does not control eligibility criteria.

Prior to the enactment of the Veterans Benefits, Health Care, and Information Technology Act of 2006, P.L. 109–461, 120 Stat. 3403, VA could only pay one per diem rate for care in a SVH. This per diem amounted to approximately one-third of the total cost of care. VA could not pay the full cost of care for a veteran in a SVH, even if that veteran qualified for VA-paid nursing home care under the Veterans Millenium Health Care and Benefits Act, P.L. 106–117. However, VA would pay the full cost of care for that veteran in a VA or community nursing home.

P.L. 109–461 included a provision requiring VA to pay SVHs a new rate for these veterans: the lesser of a prevailing rate determined by VA or the actual cost of care in the SVH. This provision is known as the "70% program."

The 70% program was meant to provide equity of access to VA resources for qualified veterans residing in SVHs. However, after implementation of the 70% program, some states and individual SVHs began reporting that it resulted in lower total payments to SVHs because of the inability to bill other payers for care and, therefore, was threatening their financial viability and ability to admit the veterans who qualified under the 70% program.

Section 3 of the bill would resolve the unintended issues created by P.L. 109–461 by allowing for greater flexibility in VA payments to SVHs under the 70% program by requiring VA to enter into a contract or agreement separately with each SVH based on the particular needs of the veteran population in a given SVH.

Section 4—Rehabilitative services for veterans with traumatic brain injury (TBI)

Approximately 1.3 million Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), and Operation New Dawn (OND) veterans have left active duty and become eligible for VA health care. According to VA, as of FY 2010, 45,606 wounded warriors have been diagnosed with TBI-related conditions.

Current law governing rehabilitative care for veterans with TBI within VA, which is codified in sections 1710C and 1710D of title 38, U.S.C. These sections direct VA to provide comprehensive care in accord with individualized rehabilitation plans to veterans with

TBI. Although these sections of law do not provide a definition of the word "rehabilitation," the phrase "rehabilitative services" is defined in section 1701(8) of title 38, U.S.C. for VA health-care purposes as "such professional, counseling, and guidance services and treatment programs as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person."

Concerns have been raised that VA has interpreted the law as limited only to those services that restore function. By limiting rehabilitative care in such a manner, individuals with TBI may risk losing out on therapy that may prove vital in maintaining physical, cognitive, and other progress. Further, they may risk losing out on services necessary for a successful reintegration into community and civilian life but which fall outside of a strictly medical model.

Section 4 of the bill recognizes the unique responsibility we owe to those suffering from TBI, especially those who may experience a lifetime of cognitive and neurological impairment, to ensure that institutional barriers do not stand in the way of those rehabilitative services needed to achieve and maintain maximum health and well-being. It would clarify current law to require that VA's responsibilities in providing rehabilitative care to veterans with TBI include the goal of maximizing independence and improving behavioral and mental health functioning within a program of individualized rehabilitation and reintegration for veterans with TBI and also include rehabilitative services within VA comprehensive programs of long-term care for veterans with TBI. This would ensure that rehabilitative services are directed not simply to "improving functioning" but also to sustaining improvement and preventing loss of functional gains and, further, are not limited only to services provided by health professionals but also include other services or supports that contribute to maximizing the veteran's independence.

Section 5—Use of service dogs on property of the Department of Veterans Affairs

Regulations regarding veterans and members of the public who enter Veterans Health Administration (VHA) facilities or properties accompanied by a guide dog are found within 38 Code of Federal Regulations (CFR), Part 1, 1.218 (a)(11), which states that, "[d]ogs and other animals, except seeing-eye dogs, shall not be brought upon property except as authorized by the head of the facility or designee."

This regulation was last updated in July of 1985 and does not address the access rights of trained service dogs. Service dogs, which are classified by VA as a prosthetic appliance and are provided to veterans through the VA Prosthetics and Sensory Aid Service, have a significant role in maintaining functionality and promoting maximum independence of veterans with disabilities. However, as a result of current regulation, disabled veterans may be denied entrance to VA medical facilities if accompanied by their VA-approved service dog.

There has been growing frustration among veterans and veterans service organizations about VA's outdated regulation and the access rights of service dogs on VA campuses.

As a result, VA issued VHA Directive 2011–013 on March 10, 2011, requiring all VHA facilities to have a written policy on access

for guide and service dogs that directs both veterans and members of the public with disabilities who require the assistance of a trained guide or service dog be authorized to enter VHA facilities and property accompanied by that trained guide or service dog consistent with the same terms and conditions, and subject to the same regulations, that govern the admission of members of the public to the property.

Section 5 of the bill would eliminate any inconsistencies between VA policy and practice and better fit the needs of today's veterans who rely on service dogs for needed aid and assistance by amending current law to mandate that service dogs have access to any VA facility consistent with the same terms and conditions, and subject to the same regulations, as generally govern the admittance of guide dogs to VA property.

Section 6—Pilot program on dog training therapy

Considerable attention has been given in recent years to the "invisible wounds of war" including mental health illnesses such as PTSD. Perhaps the most widely recognized mental health issue affecting veterans, PTSD is a severe anxiety disorder that can develop after exposure to a traumatic event in which grave physical harm occurred or was threatened. Given the prevalence of PTSD among our veteran population, Congress has recognized the need to provide veterans seeking treatment for mental health issues with newer and more innovative modes of therapy. In that vein, the Conference Report (H. Rept. 111–366) that accompanied the Consolidated Appropriations Act, 2010 (P.L. 111–117, 123 Stat. 3034) included the recommendation that VA "expand its partnership with accredited nonprofit service dog organizations where veterans with PTSD help to train service dogs."

Currently, there are therapy dog training programs in use at the VA Palo Alto Health Care System in Palo Alto, California, and the National Intrepid Center of Excellence in Bethesda, Maryland, reporting positive and promising outcomes. In each of the above programs, training service dogs for fellow veterans is believed to help address symptoms associated with post-deployment mental health issues and PTSD. Veterans participating in the programs have demonstrated improved emotional regulation, sleep patterns, and sense of personal safety. They also experienced reduced levels of anxiety and social isolation. Further, participation in the pilot enabled them to actively instill or re-establish a sense of purpose and meaning while also providing an opportunity to help fellow veterans and reintegrate healthfully back into the community. However, despite the anecdotal evidence of the therapeutic benefit of service dog training on veterans with mental health issues and PTSD, there is a serious dearth of scientific research on the value of such programs.

Section 6 of the bill would enable VA to reach more veterans with this innovative treatment model by requiring VA to conduct a three-year pilot program for the purpose of assessing the effectiveness of addressing post-deployment mental health and PTSD symptoms through a therapeutic medium of service dog training therapy. The pilot program would have the added benefit of providing a career path to veterans who successfully graduate from the program and are interested in becoming certified dog trainers.

HEARINGS

On July 25, 2011, the Subcommittee on Health held a legislative hearing on various bills introduced during the 112th Congress, including H.R. 2074, H.R. 1855, H.R. 2530, H.R. 1154, and H.R. 198. The following witnesses testified:

The Honorable Michael G. Grimm of New York; the Honorable John R. Carter of Texas, the Honorable Timothy J. Walz of Minnesota; the Honorable Larry Bucshon of Indiana; Shane Barker, Senior Legislative Associate, National Veterans Service, Veterans of Foreign Wars of the United States; Joy J. Ilem, Deputy National Legislative Director, Disabled American Veterans; Thomas J. Berger, Ph.D., Executive Director, Veterans Health Council, Vietnam Veterans of America; Carl Blake, National Legislative Director, Paralyzed Veterans of America; Christina M. Roof, National Acting Legislative Director, AMVETS; and Robert L. Jesse, M.D., Ph.D., Principal Deputy Under Secretary for Health, Veterans Health Administration, U.S. Department of Veterans Affairs. Individuals and organizations submitting statements for the record included: the Honorable Scott R. Tipton of Colorado; America's VetDogs; National Association of State Veterans Homes; Paws for Purple Hearts; Pets2Vets; Service Women's Action Network; VetsFirst, a Program of United Spinal Association; and, the Wounded Warrior Project.

SUBCOMMITTEE CONSIDERATION

On July 28 2011, the Subcommittee on Health met in an open markup session, a quorum being present, and favorably reported the following to the Full Committee: H.R. 1154, the "Veterans Equal Treatment for Service Dogs Act;" H.R. 1855, as amended, the "Veterans" Traumatic Brain Injury Rehabilitative Services' Improvements Act of 2011;" H.R. 2074 the "Veterans Sexual Assault Prevention Act;" and H.R. 2530, a bill to amend title 38, U.S.C. to provide increased flexibility in establishing rates for reimbursement of State homes by the Secretary of the Department of Veterans Affairs for nursing home care provided to veterans.

COMMITTEE CONSIDERATION

On September 8, 2011, the full Committee met in an open markup session, a quorum being present. Ms. Buerkle offered an amendment in the nature of a substititute to H.R. 2074 which would combine the contents of H.R. 2074, H.R. 2530, H.R. 1855, H.R. 1154, and H.R. 198 and insert a provision eliminating the statutory requirement that VA reimburse any full-time board-certified physician or dentist for expenses incurred, up to $1,000 per year, for continuing professional education. Mr. McNerney of California offered an amendment to the amendment in the nature of a substitute to H.R. 2074 to strike the last provision regarding continuing professional education. The amendment was adopted and H.R. 2074, as amended, was reported favorably to the House of Representatives by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report the legislation and amendments thereto. The Honorable Mr. Filner of California requested a recorded vote on adoption of the amendment to the amendment in the nature of a substitute to H.R. 2074; the recorded vote was 11 Members voting in favor of adoption, 9 Members voting in opposition. The following table reflects the vote:

Name	Yea/Aye	Nay/No	Notes
Mr. Miller, FL, Chairman		X	
Mr. Bilirakis, FL, Vice Chairman		X	
Mr. Stearns, FL			Absent
Mr. Lamborn, CO		X	
Mr. Roe, TN	X		
Mr. Stutzman, IN		X	
Mr. Flores, TX		X	
Mr. Johnson, OH		X	
Mr. Denham, CA			Absent
Mr. Runyan, NJ		X	
Mr. Benishek, MI	X		
Ms. Buerkle, NY		X	
Mr. Huelskamp, KS		X	
Mr. Filner, CA	X		
Ms. Brown, FL			Absent
Mr. Reyes, TX			Absent
Mr. Michaud, ME	X		
Ms. Sánchez, CA	X		
Mr. Braley, IA	X		
Mr. McNerney, CA	X		
Mr. Donnelly, IN	X		
Mr. Walz, MN	X		
Mr. Barrow, GA	X		
Mr. Carnahan, MO	X		
Total	11	9	

A motion by the Honorable Gus Bilirakis of Florida to order H.R. 2074, as amended, reported favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax ex-

penditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 2074, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 2074, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 2074, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 23, 2011.

Hon. JEFF MILLER,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2074, the Veterans Sexual Assault Prevention and Health Care Enhancement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ann E. Futrell.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 2074—Veterans Sexual Assault Prevention and Health Care Enhancement Act

H.R. 2074 would require the Department of Veterans Affairs (VA) to develop a comprehensive policy for tracking and reporting sexual assault incidents and make other changes to health care services. In total, CBO estimates that implementing the bill would have discretionary costs of $1 million over the 2012–2016 period, assuming the availability of appropriated funds. Enacting this legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Section 2 would require VA to prepare and implement a comprehensive policy on tracking and reporting sexual assault incidents and other safety incidents. VA has already begun to address most of the requirements of this section. It has established a multidisciplinary workgroup to assess the actions necessary to prevent sexual assault incidents and improve response to reported incidents. CBO estimates that the costs associated with preparing and distributing the required annual reports would amount to less than

$500,000 over the 2012–2016 period, assuming the availability of appropriated funds.

Section 6 would require VA to establish a pilot program through which veterans diagnosed with post-traumatic stress disorder or other mental health conditions would train service dogs for use by disabled veterans. The pilot program would operate for three years in one to three VA medical centers and require one certified dog trainer at each facility. Based on a similar program at the VA facility in Palo Alto, California, CBO estimates that each facility would train five service dogs every two years. CBO estimates that running the pilot program would cost $1 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

H.R. 2074 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. States that provide nursing home care to eligible veterans would be required to comply with a new payment structure in order to receive federal reimbursement. Any costs to those governments would be incurred voluntarily as a condition of federal assistance.

The CBO staff contact for this estimate is Ann E. Futrell. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 2074, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 2074, as amended.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides the short title of H.R. 2074, as amended, as the "Veterans Sexual Assault Prevention and Health Care Enhancement Act."

Section 2. Comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents

Section 2(a) of the bill would amend Subchapter I of chapter 17 of title 38, U.S.C., to require a comprehensive policy on the reporting and tracking of sexual assault incidents and other safety incidents by not later than March 1, 2012.

Section 2(b) of the bill would amend the table of sections at the beginning of chapter 17 of title 38, U.S.C., to include an item relating to the creation of section 1709 in Section 2(a) of the bill.

Section 2(c) of the bill would require VA to submit an interim report on the development of performance measures added by subsection 2(a) of the bill to the Committee on Veterans' Affairs of both the House of Representatives and the Senate, not later than 30 days after the date of enactment of this Act.

Section 3. Increased flexibility in establishing payment rates for nursing home care provided by state homes

Section 3(a) of the bill would amend section 1745(a) of title 38, U.S.C., by striking the requirement that VA pay each State home for nursing home care at a prescribed rate and inserting a requirement for VA to enter into a contract (or agreement under section 1720 of the same title) with each State home for payment by VA for nursing home care provided in the home and by inserting a paragraph requiring payment under each contract to be based on methodology to adequately reimburse the State home for the care provided under the contract.

Section 3(b) of the bill would require the amendment under subsection (a) of the bill to apply to care provided on or after January 1, 2012.

Section 4. Rehabilitative services for Veterans with Traumatic Brain Injury

Section 4(a) of the bill would amend section 1710C of title 38, U.S.C., to include the goal of maximizing independence within an individualized plan for the rehabilitation and reintegration of veterans with TBI, include rehabilitation objectives for sustaining improvement in cognitive, behavioral, and vocational functioning, and defining rehabilitative services as those treatment and services (which may be of on-going duration) which sustain, and prevent loss of, functional gains that have been achieved, and any other rehabilitative services or supports that may contribute to maximizing independence.

Section 4(b) of the bill would amend section 1710D of title 38, U.S.C., to include rehabilitation services within comprehensive programs for long-term rehabilitation of eligible veterans with TBI.

Section 4(c) of the bill would amend section 1710E(a) of title 38, United U.S.C., to include rehabilitation services within cooperative agreements for the use of non-Department facilities for neurorehabilitation amd recovery programs for eligible veterans with TBI.

Section 4(d) of the bill would amend 1710C(c)(2)(S) of title 38, U.S.C., to strike "opthamologist" and insert "ophthalmologist" in its place.

Section 5. Use of service dogs on property of the Department of Veterans Affairs

Section 5 of the bill would amend section 901 of title 38, U.S.C., by adding a new subsection declaring that VA may not prohibit the use of service dogs in any facility or on any property of the Department or in any facility or on any property that receives VA funding.

Section 6. Department of Veterans Affairs Pilot Program on dog training therapy

Section 6(a) of the bill would require VA to implement a pilot program on dog training therapy no later than 120 days after enactment of the Act for the purpose of assessing the effectiveness of using dog-training activities as a component of integrated post-deployment mental health and PTSD rehabilitation programs.

Section 6(b) of the bill would require the pilot described in Section 2(a) be carried out in at least one but not more than three VAMCs who meet certain criteria.

Section 6(c) of the bill would set out the parameters for the design of the pilot program.

Section 6(d) of the bill would define an eligible veteran as a veteran with PTSD or another post-deployment mental health issue who willingly volunteers to participate in the pilot program.

Section 6(e) of the bill would create a hiring preference for service dog training instructors who are veterans and who have successfully completed PTSD or other residential treatment programs and received adequate dog training certification.

Section 6(f) of the bill would require VA to collect data to determine the effectiveness of the pilot program.

Section 6(g) of the bill would require a yearly report to Congress on the pilot program.

Section 6(h) of the bill would define a "service dog training instructor" as an instructor recognized by an accredited dog organization training program who provides hands-on training in the art and science of service dog training and handling.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART I—GENERAL PROVISIONS

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CHAPTER 9—SECURITY AND LAW ENFORCEMENT ON PROPERTY UNDER THE JURISDICTION OF THE DEPARTMENT

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§ 901. Authority to prescribe rules for conduct and penalties for violations

(a) * * *

* * * * * * *

(f) The Secretary may not prohibit the use of service dogs in any facility or on any property of the Department or in any facility or on any property that receives funding from the Secretary.

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PART II—GENERAL BENEFITS

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

SUBCHAPTER I—GENERAL

Sec.
1701. Definitions.

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1709. Comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents.

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SUBCHAPTER I—GENERAL

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§ 1709. Comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents

(a) POLICY REQUIRED.—Not later than March 1, 2012, the Secretary of Veterans Affairs shall develop and implement a centralized and comprehensive policy on the reporting and tracking of sexual assault incidents and other safety incidents that occur at each medical facility of the Department, including—

(1) suspected, alleged, attempted, or confirmed cases of sexual assault, regardless of whether such assaults lead to prosecution or conviction;

(2) criminal and purposefully unsafe acts;

(3) alcohol or substance abuse related acts (including by employees of the Department); and

(4) any kind of event involving alleged or suspected abuse of a patient.

(b) SCOPE.—The policy required by subsection (a) shall cover each of the following:

(1) For purposes of reporting and tracking sexual assault incidents and other safety incidents, definitions of the terms—

(A) "safety incident";

(B) "sexual assault"; and

(C) "sexual assault incident".

(2) The development and use of specific risk-assessment tools to examine any risks related to sexual assault that a veteran may pose while being treated at a medical facility of the Department, including clear and consistent guidance on the collection of information related to—

(A) the legal history of the veteran; and

(B) the medical record of the veteran.

(3) The mandatory training of employees of the Department on security issues, including awareness, preparedness, precautions, and police assistance.

(4) The mandatory implementation, use, and regular testing of appropriate physical security precautions and equipment, including surveillance camera systems, computer-based panic alarm systems, stationary panic alarms, and electronic portable personal panic alarms.

(5) Clear, consistent, and comprehensive criteria and guidance with respect to an employee of the Department communicating and reporting sexual assault incidents and other safety incidents to—

(A) supervisory personnel of the employee at—

(i) a medical facility of the Department;

(ii) an office of a Veterans Integrated Service Network; and

(iii) the central office of the Veterans Health Administration; and

(B) a law enforcement official of the Department.

(6) Clear and consistent criteria and guidelines with respect to an employee of the Department referring and reporting to the Office of Inspector General of the Department sexual assault incidents and other safety incidents that meet the regulatory criminal threshold in accordance with section 1.201 and 1.204 of title 38, Code of Federal Regulations.

(7) An accountable oversight system within the Veterans Health Administration that includes—

(A) systematic information sharing of reported sexual assault incidents and other safety incidents among officials of the Administration who have programmatic responsibility; and

(B) a centralized reporting, tracking, and monitoring system for such incidents.

(8) Consistent procedures and systems for law enforcement officials of the Department with respect to investigating, tracking, and closing reported sexual assault incidents and other safety incidents.

(9) Clear and consistent guidance for the clinical management of the treatment of sexual assaults that are reported more than 72 hours after the assault.

(c) UPDATES TO POLICY.—The Secretary shall review and revise the policy required by subsection (a) on a periodic basis as the Secretary considers appropriate and in accordance with best practices.

(d) ANNUAL REPORT.—(1) Not later than 60 days after the date on which the Secretary develops the policy required by subsection (a), and by not later than October 1 of each year thereafter, the Secretary shall submit to the Committee on Veterans' Affairs of the

House of Representatives and the Committee on Veterans' Affairs of the Senate a report on the implementation of the policy.

(2) The report under paragraph (1) shall include—

(A) the number and type of sexual assault incidents and other safety incidents reported by each medical facility of the Department;

(B) a detailed description of the implementation of the policy required by subsection (a), including any revisions made to such policy from the previous year; and

(C) the effectiveness of such policy on improving the safety and security of the medical facilities of the Department, including the performance measures used to evaluate such effectiveness.

(e) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

SUBCHAPTER II—HOSPITAL, NURSING HOME, OR DOMICILIARY CARE AND MEDICAL TREATMENT

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§ 1710C. Traumatic brain injury: plans for rehabilitation and reintegration into the community

(a) PLAN REQUIRED.—The Secretary shall, for each individual who is a veteran or member of the Armed Forces who receives inpatient or outpatient rehabilitative hospital care or medical services provided by the Department for a traumatic brain injury—

(1) develop an individualized plan for the rehabilitation and reintegration of the individual into the community *with the goal of maximizing the individual's independence*; and

* * * * * * *

(b) CONTENTS OF PLAN.—Each plan developed under subsection (a) shall include, for the individual covered by such plan, the following:

(1) Rehabilitation objectives for improving *(and sustaining improvement in)* the physical, cognitive, *behavioral,* and vocational functioning of the individual with the goal of maximizing the independence and reintegration of such individual into the community.

(2) Access, as warranted, to all appropriate *rehabilitative services and* rehabilitative components of the traumatic brain injury continuum of care, and where appropriate, to long-term care services.

(3) A description of specific rehabilitative **[**treatments**]** *services* and other services to achieve the objectives described in paragraph (1), which shall set forth the type, frequency, duration, and location of such **[**treatments and**]** services.

* * * * * * *

(c) COMPREHENSIVE ASSESSMENT.—(1) * * *

(2) The comprehensive assessment required under paragraph (1) with respect to an individual is a comprehensive assessment of the matters set forth in that paragraph by a team, composed by the Secretary for purposes of the assessment, of individuals with expertise in traumatic brain injury, including any of the following:

(A) * * *

* * * * * * *

(S) An [opthamologist] *ophthalmologist*.

* * * * * * *

(h) REHABILITATIVE SERVICES DEFINED.—For purposes of this section, and sections 1710D and 1710E of this title, the term "rehabilitative services" includes—

(1) rehabilitative services, as defined in section 1701 of this title;

(2) treatment and services (which may be of ongoing duration) to sustain, and prevent loss of, functional gains that have been achieved; and

(3) any other rehabilitative services or supports that may contribute to maximizing an individual's independence.

§ 1710D. Traumatic brain injury: comprehensive program for long- term rehabilitation

(a) COMPREHENSIVE PROGRAM.—In developing plans for the rehabilitation and reintegration of individuals with traumatic brain injury under section 1710C of this title, the Secretary shall develop and carry out a comprehensive program of long-term care *and rehabilitative services (as defined in section 1710C of this title)* for post-acute traumatic brain injury rehabilitation that includes residential, community, and home-based components utilizing interdisciplinary [treatment] teams.

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§ 1710E. Traumatic brain injury: use of non-Department facilities for rehabilitation

(a) COOPERATIVE AGREEMENTS.—The Secretary, in implementing and carrying out a plan developed under section 1710C of this title, may provide hospital care and medical services*, including rehabilitative services (as defined in section 1710C of this title),* through cooperative agreements with appropriate public or private entities that have established long-term neurobehavioral rehabilitation and recovery programs.

* * * * * * *

SUBCHAPTER V—PAYMENTS TO STATE HOMES

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§ 1745. Nursing home care and medications for veterans with service-connected disabilities

(a)(1) [The Secretary shall pay each State home for nursing home care at the rate determined under paragraph (2)] *The Secretary shall enter into a contract (or agreement under section 1720(c)(1) of this title) with each State home for payment by the Secretary for nursing home care provided in the home*, in any case in which such care is provided to any veteran as follows:

(A) * * *

* * * * * * *

[(2) The rate determined under this paragraph with respect to a State home is the lesser of—

[(A) the applicable or prevailing rate payable in the geographic area in which the State home is located, as determined by the Secretary, for nursing home care furnished in a non-Department nursing home (as that term is defined in section 1720(e)(2) of this title); or

[(B) a rate not to exceed the daily cost of care, as determined by the Secretary, following a report to the Secretary by the director of the State home.]

(2) Payment under each contract (or agreement) between the Secretary and a State home under paragraph (1) shall be based on a methodology, developed by the Secretary in consultation with the State home, to adequately reimburse the State home for the care provided by the State home under the contract (or agreement).

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