

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# **S. 221**

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## **AN ACT**

To amend title 38, United States Code, to require the Under Secretary of Health to report major adverse personnel actions involving certain health care employees to the National Practitioner Data Bank and to applicable State licensing boards, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Department of Vet-  
5 erans Affairs Provider Accountability Act”.

6 **SEC. 2. ACCOUNTABILITY WITHIN VETERANS HEALTH AD-**  
7 **MINISTRATION.**

8       (a) REPORTING MAJOR ADVERSE ACTIONS TO NA-  
9 TIONAL PRACTITIONER DATA BANK AND STATE LICENS-  
10 ING BOARDS.—Section 7461 of title 38, United States  
11 Code, is amended by adding at the end the following new  
12 subsection:

13       “(f)(1) Whenever the Under Secretary for Health (or  
14 an official designated by the Under Secretary) brings  
15 charges based on conduct or performance against a section  
16 7401(1) employee and as a result of those charges a cov-  
17 ered major adverse action is taken against the employee,  
18 the Under Secretary shall, not later than 30 days after  
19 the date on which such covered major adverse action is  
20 carried out—

21               “(A) transmit to the National Practitioner Data  
22 Bank of the Department of Health and Human  
23 Services and the applicable State licensing board the  
24 name of the employee, a description of the covered

1 major adverse action, and a description of the rea-  
2 son for the covered major adverse action; and

3 “(B) update the VetPro System, or successor  
4 system, with a record of the covered major adverse  
5 action taken and an indication that information was  
6 transmitted under subparagraph (A).

7 “(2) The Under Secretary for Health—

8 “(A) shall enroll all 7401(1) employees in a  
9 continuous query of their record within the National  
10 Practitioner Data Bank; and

11 “(B) shall develop and implement a mechanism  
12 for maintaining and updating the information col-  
13 lected through such continuous query within the  
14 VetPro System, or successor system, to facilitate the  
15 sharing of such information between Veterans Inte-  
16 grated Service Networks.

17 “(3) In this subsection, the term ‘covered major ad-  
18 verse action’ means a major adverse action with respect  
19 to a section 7401(1) employee that originated from cir-  
20 cumstances in which the behavior of the employee so sub-  
21 stantially failed to meet generally-accepted standards of  
22 clinical practice as to raise reasonable concern for safety  
23 of patients.”.

24 (b) PROHIBITION ON SIGNING SETTLEMENTS WITH  
25 CERTAIN CLAUSES.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), the Secretary of Veterans Affairs may not  
3           enter into a settlement agreement relating to an ad-  
4           verse action against a section 7401(1) employee  
5           under which the Department of Veterans Affairs  
6           would be required to conceal a serious medical error  
7           or a lapse in generally-accepted standards of clinical  
8           practice.

9           (2) EXCEPTION.—Paragraph (1) shall not  
10          apply to a negative record if the head of the Office  
11          of Accountability and Whistleblower Protection of  
12          the Department and the Special Counsel (established  
13          by section 1211 of title 5, United States Code) joint-  
14          ly certify that the negative record is not legitimate.

15          (c) TRAINING ON CREDENTIALING AND PRIVI-  
16          LEGING.—The Under Secretary for Health of the Depart-  
17          ment of Veterans Affairs shall provide to all staff of the  
18          Veterans Health Administration who handle hiring, privi-  
19          leging, and credentialing mandatory training on—

20               (1) all policies of the Veterans Health Adminis-  
21               tration for credentialing and privileging; and

22               (2) when and how to report adverse actions to  
23               the National Practitioner Data Bank of the Depart-  
24               ment of Health and Human Services, State licensing  
25               boards, and other relevant entities.

1 (d) SENSE OF CONGRESS ON UPDATES TO THE VHA  
2 HANDBOOK.—It is the sense of Congress that—

3 (1) Congress recognizes that the confusion re-  
4 garding practices in the Veterans Health Adminis-  
5 tration for reporting to State licensing boards stems  
6 from a lack of guidance in the Veterans Health Ad-  
7 ministration handbook 1100.18;

8 (2) Congress strongly recommends that the  
9 Secretary of Veterans Affairs update such handbook  
10 to ensure that employees of the Veterans Health Ad-  
11 ministration, officials of the Veterans Integrated  
12 Services Networks, and officials of the Department  
13 of Veterans Affairs understand and are able to uti-  
14 lize the role of State licensing boards to effectively  
15 prevent instances of failed reporting and future pa-  
16 tient safety concerns;

17 (3) Congress recognizes the broad authority of  
18 the Veterans Health Administration to report to  
19 State licensing boards those employed or separated  
20 health care professionals whose behavior and clinical  
21 practice so substantially failed to meet generally-ac-  
22 cepted standards of clinical practice as to raise rea-  
23 sonable concern for safety of patients and requests  
24 that such handbook is updated to reflect appropriate

1 reporting channels to ensure employee under-  
2 standing of those procedures and authorities; and

3 (4) in developing the new handbook, the Sec-  
4 retary of Veterans Affairs should consult with—

5 (A) State licensing boards;

6 (B) the Centers for Medicare & Medicaid  
7 Services;

8 (C) the National Practitioner Data Bank  
9 of the Department of Health and Human Serv-  
10 ices; and

11 (D) the exclusive representative of section  
12 7401(1) employees.

13 (e) SECTION 7401(1) EMPLOYEE DEFINED.—In this  
14 section, the term “section 7401(1) employee” has the  
15 meaning given that term in section 7461(c)(1) of title 38,  
16 United States Code.

Passed the Senate December 19, 2019.

Attest:

*Secretary.*



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