AMENDMENT TO RULES COMMITTEE PRINT 117–33

OFFERED BY MR. CLOUD OF TEXAS

Add at the end of title VII the following new section:

SEC. 7. COMPLIANCE WITH REQUIREMENTS FOR EXAMINING QUALIFICATIONS AND CLINICAL ABILITIES OF DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE PROFESSIONALS.

(a) IN GENERAL.—Subchapter I of chapter 74 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 7414. Compliance with requirements for examining qualifications and clinical abilities of health care professionals

“(a) COMPLIANCE WITH CREDENTIALING REQUIREMENTS.—The Secretary shall ensure that each medical center of the Department, in a consistent manner—

“(1) compiles, verifies, and reviews documentation for each health care professional of the Department at such medical center regarding, at a minimum—
“(A) the professional licensure, certification, or registration of the health care professional;

“(B) whether the health care professional holds a Drug Enforcement Administration registration; and

“(C) the education, training, experience, malpractice history, and clinical competence of the health care professional; and

“(2) continuously monitors any changes to the matters under paragraph (1), including with respect to suspensions, restrictions, limitations, probations, denials, revocations, and other changes, relating to the failure of a health care professional to meet generally accepted standards of clinical practice in a manner that presents reasonable concern for the safety of patients.

“(b) Registration Regarding Controlled Substances.—(1) Except as provided by paragraph (2), the Secretary shall ensure that each covered health care professional holds an active Drug Enforcement Administration registration.

“(2) The Secretary shall—

“(A) determine the circumstances in which a medical center of the Department must obtain a
waiver under section 303 of the Controlled Substances Act (21 U.S.C. 823) with respect to covered health care professionals; and

“(B) establish a process for medical centers to request such waivers.

“(3) In carrying out paragraph (1), the Secretary shall ensure that each medical center of the Department monitors the Drug Enforcement Administration registrations of covered health care professionals at such medical center in a manner that ensures the medical center is made aware of any change in status in the registration by not later than 7 days after such change in status.

“(4) If a covered health care professional does not hold an active Drug Enforcement Administration registration, the Secretary shall carry out any of the following actions, as the Secretary determines appropriate:

“(A) Obtain a waiver pursuant to paragraph (2).

“(B) Transfer the health care professional to a position that does not require prescribing, dispensing, administering, or conducting research with controlled substances.

“(C) Take adverse actions under subchapter V of this chapter, with respect to an employee of the Department, or terminate the services of a con-
tractor, with respect to a contractor of the Department.

“(c) Reviews of Concerns Relating to Quality of Clinical Care.—(1) The Secretary shall ensure that each medical center of the Department, in a consistent manner, carries out—

“(A) ongoing, retrospective, and comprehensive monitoring of the performance and quality of the health care delivered by each health care professional of the Department located at the medical center, including with respect to the safety of such care; and

“(B) timely and documented reviews of such care if an individual notifies the Secretary of any potential concerns relating to a failure of the health care professional to meet generally accepted standards of clinical practice in a manner that presents reasonable concern for the safety of patients.

“(2) The Secretary shall establish a policy to carry out paragraph (1), including with respect to—

“(A) determining the period by which a medical center of the Department must initiate the review of a concern described in subparagraph (B) of such paragraph following the date on which the concern is received; and
“(B) ensuring the compliance of each medical center with such policy.

“(d) COMPLIANCE WITH REQUIREMENTS FOR REPORTING QUALITY OF CARE CONCERNS.—When the Secretary substantiates a concern relating to the clinical competency of, or quality of care delivered by, a health care professional of the Department (including a former such health care professional), the Secretary shall ensure that the appropriate medical center of the Department timely notifies the following entities of such concern, as appropriate:

“(1) The appropriate licensing, registration, or certification body in each State in which the health care professional is licensed, registered, or certified.

“(2) The Drug Enforcement Administration.

“(3) The National Practitioner Data Bank established pursuant to the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.).

“(4) Any other relevant entity.

“(e) PROHIBITION ON CERTAIN SETTLEMENT AGREEMENT TERMS.—(1) Except as provided by paragraph (2), the Secretary may not enter into a settlement agreement relating to an adverse action against a health care professional of the Department if such agreement includes terms that require the Secretary to conceal from
the personnel file of the employee a serious medical error
or lapse in clinical practice that constitutes a substantial
failure to meet generally accepted standards of clinical
practice as to raise reasonable concern for the safety of
patients.

“(2) Paragraph (1) does not apply to adverse actions
that the Special Counsel under section 1211 of title 5 de-
determines constitutes a prohibited personnel practice.

“(f) TRAINING.—Not less frequently than biannually,
the Secretary shall provide mandatory training to employ-
ees of each medical center of the Department who are re-
ponsible for any of the following activities:

“(1) Compiling, validating, or reviewing the cre-
dentials of health care professionals of the Depart-
ment.

“(2) Reviewing the quality of clinical care deliv-
ered by health care professionals of the Department.

“(3) Taking adverse privileging actions or mak-
ing determinations relating to other disciplinary ac-
tions or employment actions against health care pro-
fessionals of the Department for reasons relating to
the failure of a health care professional to meet gen-
erally accepted standards of clinical practice in a
manner that presents reasonable concern for the
safety of patients.
“(4) Making notifications under subsection (d).

“(g) DEFINITIONS.—In this section:

“(1) The term ‘controlled substance’ has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

“(2) The term ‘covered health care professional’ means a person employed in a position as a health care professional of the Department, or a contractor of the Department, that requires the person to be authorized to prescribe, dispense, administer, or conduct research with, controlled substances.

“(3) The term ‘Drug Enforcement Administration registration’ means registration with the Drug Enforcement Administration under section 303 of the Controlled Substances Act (21 U.S.C. 823) by health care practitioners authorized to dispense, prescribe, administer, or conduct research with, controlled substances.

“(4) The term ‘health care professional of the Department’ means the professionals described in section 1730C(b) of this title, and includes a contractor of the Department serving as such a professional.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting
after the item relating to section 7413 the following new item:

"7414. Compliance with requirements for examining qualifications and clinical abilities of health care professionals.”.

(e) Deadline for Implementation.—The Secretary of Veterans Affairs shall commence the implementation of section 7414 of title 38, United States Code, as added by subsection (a), by the following dates:

(1) With respect to subsections (a), (c)(2), (d), and (f), not later than 180 days after the date of the enactment of this Act.

(2) With respect to subsection (c)(1), not later than 1 year after the date of the enactment of this Act.

(3) With respect to subsection (b)(2), not later than 18 months after the date of the enactment of this Act.

(d) Audits and Reports.—

(1) Audits.—The Secretary of Veterans Affairs shall carry out annual audits of the compliance of medical centers of the Department of Veterans Affairs with the matters required by section 7414 of title 38, United States Code, as added by subsection (a). In carrying out such audits, the Secretary—

(A) may not authorize the medical center being audited to conduct the audit; and
(B) may enter into an agreement with another department or agency of the Federal Government or a nongovernmental entity to conduct such audits.

(2) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for 5 years, the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs of the House of Representatives and the Senate a report on the audits conducted under paragraph (1). Each such report shall include a summary of the compliance by each medical center with the matters required by such section 7414.

(3) INITIAL REPORT.—The Secretary shall include in the first report submitted under paragraph (2) the following:

(A) A description of the progress made by the Secretary in implementing such section 7414, including any matters under such section that the Secretary has not fully implemented.

(B) An analysis of the feasibility, advisability, and cost of requiring credentialing employees of the Department to be trained by an
outside entity and to maintain a credentialing certification.