

**AMENDMENT TO RULES COMMITTEE PRINT 117-**

**33**

**OFFERED BY MR. CLOUD OF TEXAS**

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

1 **SEC. 7 \_\_\_\_ . COMPLIANCE WITH REQUIREMENTS FOR EXAM-**  
2 **INING QUALIFICATIONS AND CLINICAL ABILI-**  
3 **TIES OF DEPARTMENT OF VETERANS AF-**  
4 **FAIRS HEALTH CARE PROFESSIONALS.**

5       (a) IN GENERAL.—Subchapter I of chapter 74 of title  
6 38, United States Code, is amended by adding at the end  
7 the following new section:

8 **“§ 7414. Compliance with requirements for examining**  
9 **qualifications and clinical abilities of**  
10 **health care professionals**

11       “(a) COMPLIANCE WITH CREDENTIALING REQUIRE-  
12 MENTS.—The Secretary shall ensure that each medical  
13 center of the Department, in a consistent manner—

14               “(1) compiles, verifies, and reviews documenta-  
15 tion for each health care professional of the Depart-  
16 ment at such medical center regarding, at a min-  
17 imum—

1           “(A) the professional licensure, certifi-  
2           cation, or registration of the health care profes-  
3           sional;

4           “(B) whether the health care professional  
5           holds a Drug Enforcement Administration reg-  
6           istration; and

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

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

18          “(b) REGISTRATION REGARDING CONTROLLED SUB-  
19          STANCES.—(1) Except as provided by paragraph (2), the  
20          Secretary shall ensure that each covered health care pro-  
21          fessional holds an active Drug Enforcement Administra-  
22          tion registration.

23          “(2) The Secretary shall—

24                 “(A) determine the circumstances in which a  
25                 medical center of the Department must obtain a

1 waiver under section 303 of the Controlled Sub-  
2 stances Act (21 U.S.C. 823) with respect to covered  
3 health care professionals; and

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

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

13 “(4) If a covered health care professional does not  
14 hold an active Drug Enforcement Administration registra-  
15 tion, the Secretary shall carry out any of the following ac-  
16 tions, as the Secretary determines appropriate:

17 “(A) Obtain a waiver pursuant to paragraph  
18 (2).

19 “(B) Transfer the health care professional to a  
20 position that does not require prescribing, dis-  
21 pensing, administering, or conducting research with  
22 controlled substances.

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

1 tractor, with respect to a contractor of the Depart-  
2 ment.

3 “(c) **REVIEWS OF CONCERNS RELATING TO QUALITY**  
4 **OF CLINICAL CARE.**—(1) The Secretary shall ensure that  
5 each medical center of the Department, in a consistent  
6 manner, carries out—

7 “(A) ongoing, retrospective, and comprehensive moni-  
8 toring of the performance and quality of the health care  
9 delivered by each health care professional of the Depart-  
10 ment located at the medical center, including with respect  
11 to the safety of such care; and

12 “(B) timely and documented reviews of such care if  
13 an individual notifies the Secretary of any potential con-  
14 cerns relating to a failure of the health care professional  
15 to meet generally accepted standards of clinical practice  
16 in a manner that presents reasonable concern for the safe-  
17 ty of patients.

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

20 “(A) determining the period by which a medical  
21 center of the Department must initiate the review of  
22 a concern described in subparagraph (B) of such  
23 paragraph following the date on which the concern  
24 is received; and

1           “(B) ensuring the compliance of each medical  
2           center with such policy.

3           “(d) COMPLIANCE WITH REQUIREMENTS FOR RE-  
4           PORTING QUALITY OF CARE CONCERNS.—When the Sec-  
5           retary substantiates a concern relating to the clinical com-  
6           petency of, or quality of care delivered by, a health care  
7           professional of the Department (including a former such  
8           health care professional), the Secretary shall ensure that  
9           the appropriate medical center of the Department timely  
10          notifies the following entities of such concern, as appro-  
11          priate:

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

15           “(2) The Drug Enforcement Administration.

16           “(3) The National Practitioner Data Bank es-  
17           tablished pursuant to the Health Care Quality Im-  
18           provement Act of 1986 (42 U.S.C. 11101 et seq.).

19           “(4) Any other relevant entity.

20           “(e) PROHIBITION ON CERTAIN SETTLEMENT  
21           AGREEMENT TERMS.—(1) Except as provided by para-  
22           graph (2), the Secretary may not enter into a settlement  
23           agreement relating to an adverse action against a health  
24           care professional of the Department if such agreement in-  
25           cludes terms that require the Secretary to conceal from

1 the personnel file of the employee a serious medical error  
2 or lapse in clinical practice that constitutes a substantial  
3 failure to meet generally accepted standards of clinical  
4 practice as to raise reasonable concern for the safety of  
5 patients.

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

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

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

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

18 “(3) Taking adverse privileging actions or mak-  
19 ing determinations relating to other disciplinary ac-  
20 tions or employment actions against health care pro-  
21 fessionals of the Department for reasons relating to  
22 the failure of a health care professional to meet gen-  
23 erally accepted standards of clinical practice in a  
24 manner that presents reasonable concern for the  
25 safety of patients.

1           “(4) Making notifications under subsection (d).

2           “(g) DEFINITIONS.—In this section:

3           “(1) The term ‘controlled substance’ has the  
4 meaning given that term in section 102 of the Con-  
5 trolled Substances Act (21 U.S.C. 802).

6           “(2) The term ‘covered health care professional’  
7 means a person employed in a position as a health  
8 care professional of the Department, or a contractor  
9 of the Department, that requires the person to be  
10 authorized to prescribe, dispense, administer, or con-  
11 duct research with, controlled substances.

12           “(3) The term ‘Drug Enforcement Administra-  
13 tion registration’ means registration with the Drug  
14 Enforcement Administration under section 303 of  
15 the Controlled Substances Act (21 U.S.C. 823) by  
16 health care practitioners authorized to dispense, pre-  
17 scribe, administer, or conduct research with, con-  
18 trolled substances.

19           “(4) The term ‘health care professional of the  
20 Department’ means the professionals described in  
21 section 1730C(b) of this title, and includes a con-  
22 tractor of the Department serving as such a profes-  
23 sional.”.

24           (b) CLERICAL AMENDMENT.—The table of sections  
25 at the beginning of such chapter is amended by inserting

1 after the item relating to section 7413 the following new  
2 item:

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

3 (c) DEADLINE FOR IMPLEMENTATION.—The Sec-  
4 retary of Veterans Affairs shall commence the implemen-  
5 tation of section 7414 of title 38, United States Code, as  
6 added by subsection (a), by the following dates:

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

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

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

16 (d) AUDITS AND REPORTS.—

17 (1) AUDITS.—The Secretary of Veterans Af-  
18 fairs shall carry out annual audits of the compliance  
19 of medical centers of the Department of Veterans  
20 Affairs with the matters required by section 7414 of  
21 title 38, United States Code, as added by subsection  
22 (a). In carrying out such audits, the Secretary—

23 (A) may not authorize the medical center  
24 being audited to conduct the audit; and



1 (B) may enter into an agreement with an-  
2 other department or agency of the Federal Gov-  
3 ernment or a nongovernmental entity to con-  
4 duct such audits.

5 (2) REPORTS.—Not later than 1 year after the  
6 date of the enactment of this Act, and annually  
7 thereafter for 5 years, the Secretary of Veterans Af-  
8 fairs shall submit to the Committees on Veterans'  
9 Affairs of the House of Representatives and the Sen-  
10 ate a report on the audits conducted under para-  
11 graph (1). Each such report shall include a sum-  
12 mary of the compliance by each medical center with  
13 the matters required by such section 7414.

14 (3) INITIAL REPORT.—The Secretary shall in-  
15 clude in the first report submitted under paragraph  
16 (2) the following:

17 (A) A description of the progress made by  
18 the Secretary in implementing such section  
19 7414, including any matters under such section  
20 that the Secretary has not fully implemented.

21 (B) An analysis of the feasibility, advis-  
22 ability, and cost of requiring credentialing em-  
23 ployees of the Department to be trained by an

1 outside entity and to maintain a credentialing  
2 certification.

