

110TH CONGRESS
2D SESSION

H. R. 5465

To require the Department of Defense to implement a pain care initiative,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2008

Mr. LOEBSACK (for himself, Mr. GILCHREST, Mr. BISHOP of Georgia, Mr. JOHNSON of Georgia, Mr. BRADY of Pennsylvania, Mr. ABERCROMBIE, Mr. BRALEY of Iowa, Ms. HOOLEY, and Ms. SHEA-PORTER) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To require the Department of Defense to implement a pain
care initiative, 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 AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Military Pain Care Act of 2008”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Findings.

Sec. 3. Pain care initiative in military health care facilities.

Sec. 4. Pain care standards in TRICARE plans.

Sec. 5. Report of Comptroller General.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Acute and chronic pain are prevalent condi-
4 tions among active duty and retired military per-
5 sonnel.

6 (2) Characteristics of modern warfare, includ-
7 ing the use of improvised explosive devices, produce
8 substantial numbers of battlefield casualties with
9 significant damage to both the central and periph-
10 eral nervous systems.

11 (3) The successes of military health care both
12 on and off the battlefield result in high survival
13 rates of severely injured military personnel who will
14 be afflicted with significant pain disorders on either
15 an acute or chronic basis.

16 (4) Failure to treat acute pain promptly and
17 appropriately at the time of injury, during initial
18 medical and surgical care, and at the time of transi-
19 tion to community-based care, contributes to the de-
20 velopment of long-term chronic pain syndromes, in
21 some cases accompanied by long-term mental health
22 and substance abuse disorders.

23 (5) Pain is a leading cause of short- and long-
24 term disability among military personnel.

1 (6) The military health care systems have im-
2 plemented important pain care programs at some fa-
3 cilities and in some areas, but comprehensive pain
4 care is not consistently provided on a uniform basis
5 throughout the systems to all patients in need of
6 such care.

7 (7) Inconsistent and ineffective pain care leads
8 to pain-related impairments, occupational disability,
9 and medical and mental complications with long-
10 term costs for the military health and disability sys-
11 tems, and for society at large.

12 (8) Research, diagnosis, treatment, and man-
13 agement of acute and chronic pain in the active duty
14 and retired military populations constitute health
15 care priorities of the United States.

16 **SEC. 3. PAIN CARE INITIATIVE IN MILITARY HEALTH CARE**
17 **FACILITIES.**

18 (a) REQUIREMENT.—

19 (1) IN GENERAL.—Chapter 55 of title 10,
20 United States Code, is amended by adding at the
21 end the following new section:

22 **“§ 1110a. Pain care**

23 “(a) PAIN CARE INITIATIVE REQUIREMENT.—The
24 Secretary of Defense, in coordination with the Secretary
25 of Veterans Affairs, the Secretary of Health and Human

1 Services, and the Surgeon General of the United States,
2 shall develop and implement a pain care initiative in all
3 health care facilities of the uniformed services.

4 “(b) MATTERS COVERED.—(1) The initiative shall be
5 designed to ensure that all active and retired members of
6 the uniformed services and their dependents receiving
7 treatment in health care facilities of the uniformed serv-
8 ices—

9 “(A) are assessed for pain at the time of admis-
10 sion or initial treatment, and periodically thereafter,
11 using a professionally recognized pain assessment
12 tool or process; and

13 “(B) receive appropriate pain care consistent
14 with recognized means for assessment, diagnosis,
15 treatment and management of acute and chronic
16 pain, including, in appropriate cases, access to spe-
17 cialty pain management services.

18 “(2) The initiative shall include the training and de-
19 ployment of acute pain personnel and services at all Level
20 III care facilities, and, to the extent feasible, on the battle-
21 field.

22 “(c) IMPLEMENTATION.—The Secretary of Defense
23 shall implement the pain care initiative—

1 “(1) in the case of inpatient care, not later than
2 12 months after the date of the enactment of this
3 section; and

4 “(2) in the case of outpatient care, not later
5 than 18 months after the date of the enactment of
6 this section.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions at the beginning of such chapter is amended
9 by adding at the end the following new item:

“1110a. Pain care.”.

10 (b) REPORT.—Not later than nine months after the
11 date of the enactment of this Act, the administering Secre-
12 taries (as defined in section 1072(3) of title 10, United
13 States Code), shall submit to the congressional defense
14 committees a report on the status of the development and
15 implementation of the pain care initiative required under
16 section 1110a of title 10, United States Code, as added
17 by subsection (a).

18 **SEC. 4. PAIN CARE STANDARDS IN TRICARE PLANS.**

19 (a) IN GENERAL.—Section 1097 of title 10, United
20 States Code, is amended by adding at the end the fol-
21 lowing new subsection:

22 “(f) PAIN CARE STANDARDS.—(1) Any contract en-
23 tered into under this section shall include the provision
24 of appropriate care for the treatment of patients in pain
25 that—

1 “(A) is consistent with recognized means for as-
2 sessment, diagnosis, treatment, and management of
3 acute and chronic pain;

4 “(B) includes evaluation and treatment of ac-
5 companying illnesses, including depression, other
6 mental health disorders, sleep disturbance, and sub-
7 stance abuse;

8 “(C) provides medical and other health services
9 through physicians and other practitioners appro-
10 priately credentialed or experienced in pain manage-
11 ment;

12 “(D) provides for referral of patients with
13 chronic pain to specialists, and, in appropriate cases,
14 to a comprehensive multidisciplinary pain manage-
15 ment program;

16 “(E) continues treatment for as long as treat-
17 ment is required to maximize the quality of life and
18 functional capacity of the patient; and

19 “(F) permits physicians and other practitioners
20 appropriately credentialed or experienced in pain
21 management to make clinical decisions with respect
22 to the need for and the extent and duration of pain
23 care services.

24 “(2) In this subsection:

1 “(A) The term ‘chronic pain’ means severe, per-
2 sistent, or recurrent pain, regardless of causation or
3 body location, that interferes with the activities of
4 daily living, and has not been significantly reduced
5 or ameliorated despite reasonable treatment efforts.

6 “(B) The term ‘comprehensive multidisciplinary
7 pain management program’ means an inpatient or
8 outpatient health care facility or program that—

9 “(i) provides at least medical, nursing,
10 mental health, and rehabilitation services
11 through licensed health care professionals;

12 “(ii) provides or arranges for the provision
13 of inpatient and outpatient hospital and reha-
14 bilitation facility services, drugs, devices, and
15 other items and services required for the treat-
16 ment of chronic pain;

17 “(iii) provides ongoing patient and profes-
18 sional education for pain management;

19 “(iv) is accredited as a comprehensive pain
20 management program by an accrediting organi-
21 zation approved by the Secretary, including the
22 Joint Commission on the Accreditation of
23 Health Care Organizations or the Rehabilita-
24 tion Accreditation Commission; and

1 “(v) is directed by one or more physicians
2 credentialed in pain management (or, in appro-
3 priate cases, dentistry) by a board or boards
4 approved by the Secretary, which shall include
5 the American Board of Pain Medicine and
6 boards recognized by the American Board of
7 Medical Specialties.

8 “(3) COMPLIANCE.—A contractor may comply with
9 the requirements set forth in this subsection by providing
10 care through its own network of participating providers,
11 or under arrangement with out-of-network providers, but
12 in no event may a contractor impose higher costs on its
13 enrollees in the form of deductibles, copayments, pre-
14 miums, or otherwise, in the event appropriate pain care
15 in accordance with the standards set forth in this sub-
16 section is provided out-of-network.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to contracts entered into on or
19 after the date occurring one year after the date of the en-
20 actment of this Act.

21 **SEC. 5. REPORT OF COMPTROLLER GENERAL.**

22 (a) REPORT.—The Comptroller General shall conduct
23 a study of, and deliver to the congressional defense com-
24 mittees not later than six months after the date of the
25 enactment of this Act a report on, the adequacy of pain

1 care in the health care facilities, services, and programs
2 of the Department of Defense.

3 (b) PURPOSES.—The purposes of the study and re-
4 port shall be to evaluate the consistency, across programs,
5 facilities, relevant demographic groups, and geographic re-
6 gions, with which—

7 (1) patients are initially assessed and periodi-
8 cally reassessed for pain;

9 (2) both acute and chronic pain are promptly
10 and appropriately diagnosed, treated, and managed;

11 (3) patients and their families or other care-
12 givers are included as active participants in pain
13 management;

14 (4) pain care is provided in a comprehensive
15 and interdisciplinary manner where appropriate; and

16 (5) health care professionals in military facili-
17 ties are adequately trained in pain management.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—For pur-
19 poses of carrying out this section, there is authorized to
20 be appropriated such sums as may be necessary for fiscal
21 years 2009 through 2011.

○