

38 USC 8110 - Operation of medical facilities

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Sec. 8110. Operation of medical facilities

(a)

(1) The Secretary shall establish the total number of hospital beds and nursing home beds in medical facilities over which the Secretary has direct jurisdiction for the care and treatment of eligible veterans. The Secretary shall establish the total number of such beds so as to maintain a contingency capacity to assist the Department of Defense in time of war or national emergency to care for the casualties of such war or national emergency. Of the number of beds authorized pursuant to the preceding sentence, the Secretary shall maintain the availability of such additional beds and facilities in addition to the operating bed level as the Secretary considers necessary for such contingency purposes. The President shall include in the Budget transmitted to the Congress for each fiscal year pursuant to section 1105 of title 31, an amount for medical care and amounts for construction sufficient to maintain the availability of the contingency capacity referred to in the second sentence of this paragraph. The Secretary shall staff and maintain, in such a manner as to ensure the immediate acceptance and timely and complete care of patients, and in a manner consistent with the policies of the Secretary on overtime, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services.

(2) The Secretary shall maintain the bed and treatment capacities of all Department medical facilities, including the staffing required to maintain such capacities, so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States, to minimize delays in admissions and in the provision of hospital, nursing home, and domiciliary care, and of medical services furnished pursuant to section 1710 (a) of this title, and to ensure that eligible veterans are provided such care and services in an appropriate manner.

(3)

(A) The Under Secretary for Health shall at the end of each fiscal year

(i) analyze agencywide admission policies and the records of those eligible veterans who apply for hospital care, medical services, and nursing home care, but are rejected or not immediately admitted or provided such care or services, and

(ii) review and make recommendations regarding the adequacy of staff levels for compliance with the policy established under subparagraph (C), the adequacy of the established operating bed levels, the geographic distribution of operating beds, the demographic characteristics of the veteran population and the associated need for medical care and nursing home facilities and services in each State, and the proportion of the total number of operating beds that are hospital beds and that are nursing home beds.

(B) After considering the analyses and recommendations of the Under Secretary for Health pursuant to subparagraph (A) of this paragraph for any fiscal year, the Secretary shall report to

the committees, on or before December 1 after the close of such fiscal year, on the results of the analysis of the Under Secretary for Health and on the numbers of operating beds and level of treatment capacities required to enable the Department to carry out the primary function of the Veterans Health Administration. The Secretary shall include in each such report recommendations for

(i) the numbers of operating beds and the level of treatment capacities required for the health care of veterans and the maintenance of the contingency capacity referred to in paragraph (1) of this subsection, and

(ii) the appropriate staffing and funds therefor.

(C) The Secretary shall, in consultation with the Under Secretary for Health, establish a nationwide policy on the staffing of Department medical facilities in order to ensure that such facilities have adequate staff for the provision to veterans of appropriate, high-quality care and services. The policy shall take into account the staffing levels and mixture of staff skills required for the range of care and services provided veterans in Department facilities.

(4)

(A) With respect to each law making appropriations for the Department for any fiscal year (or any part of a fiscal year), there shall be provided to the Department the funded personnel ceiling defined in subparagraph (C) of this paragraph and the funds appropriated therefor.

(B) In order to carry out the provisions of subparagraph (A) of this paragraph, the Director of the Office of Management and Budget shall, with respect to each such law

(i) provide to the Department for the fiscal year (or part of a fiscal year) concerned such funded personnel ceiling and the funds necessary to achieve such ceiling, and

(ii) submit to the appropriate committees of the Congress and to the Comptroller General of the United States certification that the Director has so provided such ceiling. Not later than the thirtieth day after the enactment of such a law or, in the event of the enactment of such a law more than thirty days prior to the fiscal year for which such law makes such appropriations, not later than the tenth day of such fiscal year, the certification required in the first sentence of this subparagraph shall be submitted, together with a report containing complete information on the personnel ceiling that the Director has provided to the Department for the employees described in subparagraph (C) of this paragraph.

(C) For the purposes of this paragraph, the term "funded personnel ceiling" means, with respect to any fiscal year (or part of a fiscal year), the authorization by the Director of the Office of Management and Budget to employ (under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses) not less than the number of employees for the employment of which appropriations have been made for such fiscal year (or part of a fiscal year).

(5) Notwithstanding any other provision of this title or of any other law, funds appropriated for the Department under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses may not be used for, and no employee compensated from such funds may carry out any activity in connection with,

the conduct of any study comparing the cost of the provision by private contractors with the cost of the provision by the Department of commercial or industrial products and services for the Veterans Health Administration unless such funds have been specifically appropriated for that purpose.

(6)

(A) Temporary research personnel of the Veterans Health Administration shall be excluded from any ceiling on full-time equivalent employees of the Department or any other personnel ceiling otherwise applicable to employees of the Department.

(B) For purposes of subparagraph (A) of this paragraph, the term "temporary research personnel" means personnel who are employed in the Veterans Health Administration in other than a career appointment for work on a research activity and who are not paid by the Department or are paid from funds appropriated to the Department to support such activity.

(b) When the Secretary determines, in accordance with regulations which the Secretary shall prescribe, that a Department facility serves a substantial number of veterans with limited English-speaking ability, the Secretary shall establish and implement procedures, upon the recommendation of the Under Secretary for Health, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Department staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(c) The Secretary shall include in the materials submitted to Congress each year in support of the budget of the Department for the next fiscal year a report on activities and proposals involving contracting for performance by contractor personnel of work previously performed by Department employees. The report shall—

(1) identify those specific activities that are currently performed at a Department facility by more than 10 Department employees which the Secretary proposes to study for possible contracting involving conversion from performance by Department employees to performance by employees of a contractor; and

(2) identify those specific activities that have been contracted for performance by contractor employees during the prior fiscal year (shown by location, subject, scope of contracts, and savings) and shall describe the effect of such contracts on the quality of delivery of health services during such year.

(d) The Secretary may not in any fiscal year close more than 50 percent of the beds within a bed section (of 20 or more beds) of a Department medical center unless the Secretary first submits to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report providing a justification for the closure. No action to carry out such closure may be taken after the submission of such report until the end of the 21-day period beginning on the date of the submission of the report.

(e) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, not later than January 20 of each year, a report documenting by

network for the preceding fiscal year the following:

(1) The number of medical service and surgical service beds, respectively, that were closed during that fiscal year and, for each such closure, a description of the changes in delivery of services that allowed such closure to occur.

(2) The number of nursing home beds that were the subject of a mission change during that fiscal year and the nature of each such mission change.

(f) For purposes of this section:

(1) The term "closure", with respect to beds in a medical center, means ceasing to provide staffing for, and to operate, those beds. Such term includes converting the provision of such bed care from care in a Department facility to care under contract arrangements.

(2) The term "bed section", with respect to a medical center, means psychiatric beds (including beds for treatment of substance abuse and post-traumatic stress disorder), intermediate, neurology, and rehabilitation medicine beds, extended care (other than nursing home) beds, and domiciliary beds.

(3) The term "justification", with respect to closure of beds, means a written report that includes the following:

(A) An explanation of the reasons for the determination that the closure is appropriate and advisable.

(B) A description of the changes in the functions to be carried out and the means by which such care and services would continue to be provided to eligible veterans.

(C) A description of the anticipated effects of the closure on veterans and on their access to care.