

“(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Veterans' Administration, or by or against any individual in the official capacity of such individual as an officer of the Veterans' Administration, shall abate by reason of the enactment of this Act.

“(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Veterans' Administration shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Veterans Affairs.

“(f) COMPENSATION FOR CONTINUED SERVICE.—Any person—

“(1) who acts as Secretary or Deputy Secretary of the Department of Veterans Affairs under section 3(e);

“(2) who continues to serve as Chief Medical Director [now Under Secretary for Health] or Chief Benefits Director [now Under Secretary for Benefits] of such department under section 3(f) or (g), respectively;

“(3) who acts as the Director of the National Cemetery System [now Under Secretary of Veterans Affairs for Memorial Affairs] under section 3(h); or

“(4) who acts as General Counsel of the Department of Veterans Affairs under section 8(b);

after the effective date of this Act and before the first appointment of a person to such position after such date shall continue to be compensated for so serving or acting at the rate at which such person was compensated before the effective date of this Act.

“[SEC. 12. Repealed. Pub. L. 102-83, §3(3), Aug. 6, 1991, 105 Stat. 402.]

“SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

“After consultation with the appropriate committees of the Congress, the Secretary of Veterans Affairs shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to title 38, United States Code, and to other provisions of law, which reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the date of enactment of this Act [Oct. 25, 1988].

“[SEC. 16. Repealed. Pub. L. 102-83, §3(3), Aug. 6, 1991, 105 Stat. 402.]

“SEC. 18. EFFECTIVE DATE.

“(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on March 15, 1989.

“(b) APPOINTMENT OF SECRETARY.—Notwithstanding any other provision of law or of this Act, the President may, any time after January 21, 1989, appoint an individual to serve as Secretary of the Department of Veterans Affairs.”

EX. ORD. NO. 13793. IMPROVING ACCOUNTABILITY AND WHISTLEBLOWER PROTECTION AT THE DEPARTMENT OF VETERANS AFFAIRS

Ex. Ord. No. 13793, Apr. 27, 2017, 82 F.R. 20539, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose.* This order is intended to improve accountability and whistleblower protection at the Department of Veterans Affairs (VA) by directing the Secretary of Veterans Affairs (Secretary) to establish within the VA an Office of Accountability and Whistleblower Protection and to appoint a Special Assistant to serve as Executive Director of the Office.

SEC. 2. *Establishing a VA Office of Accountability and Whistleblower Protection.* (a) Within 45 days of the date of this order, and to the extent permitted by law, the Secretary shall establish in the VA the Office of Accountability and Whistleblower Protection (Office), and shall appoint a Special Assistant, reporting directly to

the Secretary, to serve as Executive Director of the Office. The VA shall provide funding and administrative support for the Office, consistent with applicable law and subject to the availability of appropriations.

(b) To the extent permitted by law, the Office shall:

(i) advise and assist the Secretary in using, as appropriate, all available authorities to discipline or terminate any VA manager or employee who has violated the public's trust and failed to carry out his or her duties on behalf of veterans, and to recruit, reward, and retain high-performing employees;

(ii) identify statutory barriers to the Secretary's authority to discipline or terminate any employee who has jeopardized the health, safety, or well-being of a veteran, and to recruit, reward, and retain high-performing employees; and report such barriers to the Secretary for consideration as to the need for legislative changes;

(iii) work closely with relevant VA components to ensure swift and effective resolution of veterans' complaints of wrongdoing at the VA; and

(iv) work closely with relevant VA components to ensure adequate investigation and correction of wrongdoing throughout the VA, and to protect employees who lawfully disclose wrongdoing from retaliation.

(c) In establishing the Office, the Secretary shall consider, in addition to any other relevant factors:

(i) whether some or all of the functions of the Office are currently performed by an existing VA office, component, or program;

(ii) whether certain administrative capabilities necessary for operating the Office are redundant with those of another VA office, component, or program; and

(iii) whether combining the Office with another VA office, component, or program may improve the VA's efficiency, effectiveness, or accountability.

SEC. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§ 302. Seal

(a) The Secretary of Veterans Affairs shall cause a seal of office to be made for the Department of such device as the President shall approve. Judicial notice shall be taken of the seal.

(b) Copies of any public document, record, or paper belonging to or in the files of the Department, when authenticated by the seal and certified by the Secretary (or by an officer or employee of the Department to whom authority has been delegated in writing by the Secretary), shall be evidence equal with the original thereof.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 379.)

PRIOR PROVISIONS

Prior section 302 was renumbered section 1102 of this title.

Provisions similar to those in this section were contained in section 202 of this title prior to repeal by Pub. L. 102-83, §2(a).

§ 303. Secretary of Veterans Affairs

There is a Secretary of Veterans Affairs, who is the head of the Department and is appointed

by the President, by and with the advice and consent of the Senate. The Secretary is responsible for the proper execution and administration of all laws administered by the Department and for the control, direction, and management of the Department.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 379.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 210(a), (b)(1) of this title and in second and third sentences of section 2 of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §§2(a), 3(1).

PLANS FOR USE OF SUPPLEMENTAL APPROPRIATIONS REQUIRED

Pub. L. 115-182, title I, §141, June 6, 2018, 132 Stat. 1429, as amended by Pub. L. 115-251, title II, §211(b)(3), Sept. 29, 2018, 132 Stat. 3176, provided that: "Whenever the Secretary of Veterans Affairs submits to Congress a request for supplemental appropriations or any other appropriation outside the standard budget process to address a budgetary issue affecting the Department of Veterans Affairs, the Secretary shall, not later than 45 days before the date on which such budgetary issue would start affecting a program or service, submit to Congress a justification for the request, including a plan that details how the Secretary intends to use the requested appropriation and how long the requested appropriation is expected to meet the needs of the Department and certification that the request was made using an updated and sound actuarial analysis."

INCLUSION IN ANNUAL BUDGET SUBMISSION OF INFORMATION ON CAPACITY OF VETERANS BENEFITS ADMINISTRATION TO PROCESS BENEFITS CLAIMS

Pub. L. 114-315, title I, §106, Dec. 16, 2016, 130 Stat. 1542, provided that:

"(a) IN GENERAL.—Along with the supporting information included in the budget submitted to Congress by the President pursuant to section 1105(a) of title 31, United States Code, the President shall include information on the capacity of the Veterans Benefits Administration to process claims for benefits under the laws administered by the Secretary of Veterans Affairs, including information described in subsection (b), during the fiscal year covered by the budget with which the information is submitted.

"(b) INFORMATION DESCRIBED.—The information described in this subsection is the following:

"(1) An estimate of the average number of claims for benefits under the laws administered by the Secretary, excluding such claims completed during mandatory overtime, that a single full-time equivalent employee of the Administration should be able to process in a year, based on the following:

"(A) A time and motion study that the Secretary shall conduct on the processing of such claims.

"(B) Such other information relating to such claims as the Secretary considers appropriate.

"(2) A description of the actions the Secretary will take to improve the processing of such claims.

"(3) An assessment of the actions identified by the Secretary under paragraph (2) in the previous year and an identification of the effects of those actions.

"(c) EFFECTIVE DATE.—This section shall apply with respect to any budget submitted as described in subsection (a) with respect to any fiscal year after fiscal year 2018."

INFORMATION TO BE INCLUDED IN BUDGET JUSTIFICATION DOCUMENTS FOR CONSTRUCTION, MAJOR PROJECTS ACCOUNT

Pub. L. 114-223, div. A, title II, §258, Sept. 29, 2016, 130 Stat. 895, provided that:

"(a) In fiscal year 2017 and each fiscal year hereafter, beginning with the fiscal year 2018 budget request submitted to Congress pursuant to section 1105(a) of title 31, United States Code, the budget justification documents submitted for the 'Construction, Major Projects' account of the Department of Veterans Affairs shall include, at a minimum, the information required under subsection (b).

"(b) The budget justification documents submitted pursuant to subsection (a) shall include, for each project—

"(1) the estimated total cost of the project;

"(2) the funding provided for each fiscal year prior to the budget year;

"(3) the amount requested for the budget year;

"(4) the estimated funding required for the project for each of the 4 fiscal years succeeding the budget year; and

"(5) such additional information as is enumerated under the heading relating to the 'Construction, Major Projects' account of the Department of Veterans Affairs in the joint explanatory statement accompanying this Act.

"(c) Not later than 45 days after the date of enactment of this Act [Sept. 29, 2016], the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a proposed budget justification template that complies with the requirements of this section."

[For definition of "joint explanatory statement accompanying this Act" as used in section 258 of div. A of Pub. L. 114-223, set out above, see section 6 of Pub. L. 114-223, Sept. 29, 2016, 130 Stat. 858.]

NOTICE TO CONGRESSIONAL VETERANS COMMITTEES OF CERTAIN TRANSFERS OF FUNDS

Pub. L. 109-461, title X, §1001, Dec. 22, 2006, 120 Stat. 3464, provided that: "To the extent that the Secretary of Veterans Affairs is required or directed, under any provision of law, to provide written notice to any committee of Congress other than the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives on the transfer of appropriations from one account to any other account, the Secretary shall also transmit such notice to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives."

NATIONAL CENTER ON WAR-RELATED ILLNESSES AND POST-DEPLOYMENT HEALTH ISSUES

Pub. L. 105-368, title I, §103, Nov. 11, 1998, 112 Stat. 3322, provided that:

"(a) ASSESSMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate independent organization, under which such entity shall assist in developing a plan for the establishment of a national center or national centers for the study of war-related illnesses and post-deployment health issues. The purposes of such a center may include—

"(1) carrying out and promoting research regarding the etiologies, diagnosis, treatment, and prevention of war-related illnesses and post-deployment health issues; and

"(2) promoting the development of appropriate health policies, including monitoring, medical recordkeeping, risk communication, and use of new technologies.

"(b) RECOMMENDATIONS AND REPORT.—With respect to such a center, an agreement under this section shall provide for the Academy (or other entity) to—

"(1) make recommendations regarding: (A) design of an organizational structure or structures, operational scope, staffing and resource needs, establishment of appropriate databases, the advantages of single or multiple sites, mechanisms for implementing recommendations on policy, and relationship to academic or scientific entities; (B) the role or roles that

relevant Federal departments and agencies should have in the establishment and operation of any such center or centers; and (C) such other matters as it considers appropriate; and

“(2) report to the Secretary, the Secretaries of Defense and Health and Human Services, and the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than 1 year after the date of the enactment of this Act [Nov. 11, 1998], on its recommendations.

“(c) REPORT ON ESTABLISHMENT OF NATIONAL CENTER.—Not later than 60 days after receiving the report under subsection (b), the Secretaries specified in subsection (b)(2) shall submit to the Committees on Veterans' Affairs and Armed Services of the Senate and the Committees on Veterans' Affairs and National Security of the House of Representatives a joint report on the findings and recommendations contained in that report. Such report may set forth an operational plan for carrying out any recommendation in that report to establish a national center or centers for the study of war-related illnesses. No action to carry out such plan may be taken after the submission of such report until the end of a 90-day period following the date of the submission.”

SPECIFICATION IN BUDGET SUBMISSIONS OF FUNDS FOR CERTAIN VETERANS BENEFITS

Pub. L. 100-687, div. B, title XIV, §1404, Nov. 18, 1988, 102 Stat. 4131, as amended by Pub. L. 102-83, §§5(c)(2), 6(k)(3), Aug. 6, 1991, 105 Stat. 406, 409, provided that:

“(a) BUDGET INFORMATION.—In the documentation providing detailed information on the budgets for the Department of Veterans Affairs and the Department of Labor that the Secretary of Veterans Affairs and the Secretary of Labor, respectively, submit to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Secretary of Veterans Affairs and the Secretary of Labor shall identify, to the maximum extent feasible, the estimated amount in each of the appropriation requests for Department of Veterans Affairs accounts and Department of Labor accounts, respectively, that is to be obligated for the furnishing of each of the following services or benefits only to, or with respect to, veterans who performed active military, naval, or air service in combat with the enemy or in a theatre of combat operations during a period of war or other hostilities:

“(1) Employment services and other employment benefits under programs administered by the Secretary of Labor.

“(2) Compensation under chapter 11 of title 38, United States Code.

“(3) Dependency and Indemnity Compensation under chapter 13 of such title.

“(4) Pension under chapter 15 of such title.

“(5) Inpatient hospital care under chapter 17 of such title.

“(6) Outpatient medical care under chapter 17 of such title.

“(7) Nursing home care under chapter 17 of such title.

“(8) Domiciliary care under chapter 17 of such title.

“(9) Readjustment counseling services under section 1712A of such title.

“(10) Insurance under chapter 19 of such title.

“(11) Specially adapted housing for disabled veterans under chapter 21 of such title.

“(12) Burial benefits under chapter 23 of such title.

“(13) Educational assistance under chapters 30, 32, and 34 of such title and chapter 106 of title 10, United States Code.

“(14) Vocational rehabilitation services under chapter 31 of title 38, United States Code.

“(15) Survivors' and dependents' educational assistance under chapter 35 of such title.

“(16) Home loan benefits under chapter 37 of such title.

“(17) Automobiles and adaptive equipment under chapter 39 of such title.

“(b) REPORT ON FEASIBILITY.—If the Secretary of Veterans Affairs or the Secretary of Labor determines that, with respect to any services or benefits referred to in subsection (a), it is not feasible to identify an estimated dollar amount to be obligated for furnishing such services or benefits only to veterans described in that subsection for any fiscal year, the Secretary of Veterans Affairs and the Secretary of Labor shall, with respect to an appropriation request for such fiscal year relating to such services or benefits, report to the Committees on Veterans' Affairs of the Senate and the House of Representatives the reasons for the infeasibility. The report shall be submitted contemporaneously with the budget submission for such fiscal year. The report shall specify (1) the information, systems, equipment, or personnel that would be required in order for it to be feasible for the Secretary of Veterans Affairs or the Secretary of Labor to identify such amount, and (2) the actions to be taken in order to ensure that it will be feasible to make such an estimate in connection with the submission of the budget request for the next fiscal year.”

INFORMATION AND TRAINING CONCERNING AIDS PREVENTION

Pub. L. 100-322, title I, §123, May 20, 1988, 102 Stat. 504, as amended by Pub. L. 102-83, §6(j)(2), Aug. 6, 1991, 105 Stat. 409; Pub. L. 102-531, title III, §312(c), Oct. 27, 1992, 106 Stat. 3504, provided that:

“(a) INFORMATION PROGRAM.—The Secretary of Veterans Affairs shall establish and carry out an information program relating to the acquired immune deficiency syndrome (hereinafter in this section referred to as ‘AIDS’). The information program shall be for employees and consultants of the Department of Veterans Affairs, for other persons providing services in Department of Veterans Affairs facilities to beneficiaries of programs administered by the Department of Veterans Affairs, and for such beneficiaries.

“(b) REQUIRED ELEMENTS OF INFORMATION PROGRAM.—In conducting the program under subsection (a), the Secretary shall—

“(1) develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control and Prevention, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

“(2) provide for periodic dissemination of publications (including the Surgeon General's Report on AIDS) and other materials containing such information;

“(3) make publications and other suitable materials containing such information readily available in Department of Veterans Affairs health-care facilities and such other Department of Veterans Affairs facilities as the Secretary considers appropriate; and

“(4) disseminate information (including the Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus, and information on preventing the transmission of such virus, to Department of Veterans Affairs substance abuse treatment personnel, to each person being furnished treatment by the Department of Veterans Affairs for drug abuse, and to each person receiving care or services from the Department of Veterans Affairs whom the Secretary believes to be at high risk for AIDS.

“(c) TRAINING IN AIDS PREVENTION.—The Secretary shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of all health-care personnel and all health-care support personnel involved in the furnishing of care under programs administered by the Department of Veterans Affairs.”

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Veterans Affairs, see Parts 1, 2, and 27 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

§ 304. Deputy Secretary of Veterans Affairs

There is in the Department a Deputy Secretary of Veterans Affairs, who is appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe. Unless the President designates another officer of the Government, the Deputy Secretary shall be Acting Secretary of Veterans Affairs during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 379.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 210(d) of this title and in section 3(a) of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §2(a), 3(3).

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of Veterans Affairs are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13247, Dec. 18, 2001, 66 F.R. 66271, listed in a table under section 3345 of Title 5, Government Organization and Employees.

§ 305. Under Secretary for Health

(a)(1) There is in the Department an Under Secretary for Health, who is appointed by the President, by and with the advice and consent of the Senate.

(2) The Under Secretary for Health shall be appointed without regard to political affiliation or activity and solely—

(A) on the basis of demonstrated ability in the medical profession, in health-care administration and policy formulation, or in health-care fiscal management; and

(B) on the basis of substantial experience in connection with the programs of the Veterans Health Administration or programs of similar content and scope.

(b) The Under Secretary for Health is the head of, and is directly responsible to the Secretary for the operation of, the Veterans Health Administration.

(c)(1) Whenever a vacancy in the position of Under Secretary for Health occurs or is anticipated, the Secretary shall establish a commission to recommend individuals to the President for appointment to the position.

(2) A commission established under this subsection shall be composed of the following members appointed by the Secretary:

(A) Three persons representing clinical care and medical research and education activities affected by the Veterans Health Administration.

(B) Two persons representing veterans served by the Veterans Health Administration.

(C) Two persons who have experience in the management of veterans health services and research programs, or programs of similar content and scope.

(D) The Deputy Secretary of Veterans Affairs.

(E) The Chairman of the Special Medical Advisory Group established under section 7312 of this title.

(F) One person who has held the position of Under Secretary for Health (including service as Chief Medical Director of the Veterans' Administration), if the Secretary determines that it is desirable for such person to be a member of the commission.

(3) A commission established under this subsection shall recommend at least three individuals for appointment to the position of Under Secretary for Health. The commission shall submit all recommendations to the Secretary. The Secretary shall forward the recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request the commission to recommend additional individuals for appointment.

(4) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this subsection.

(Added and amended Pub. L. 102-83, §§2(a), 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 379, 404; Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103-446, title XII, §1201(c)(1), (e)(2), Nov. 2, 1994, 108 Stat. 4683, 4685; Pub. L. 108-422, title V, §503, Nov. 30, 2004, 118 Stat. 2396; Pub. L. 109-461, title II, §210(a), Dec. 22, 2006, 120 Stat. 3418.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3(b) of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §3(3).

AMENDMENTS

2006—Subsecs. (c), (d). Pub. L. 109-461 redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "The Under Secretary for Health shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Under Secretary for Health before the completion of the term for which the Under Secretary for Health was appointed, the President shall communicate the reasons for the removal to Congress."

2004—Subsec. (a)(2). Pub. L. 108-422, §503(1), struck out "shall be a doctor of medicine and" after "The Under Secretary for Health" in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 108-422, §503(2), substituted "or in health-care" for "and in health-care".

1994—Subsec. (a)(1). Pub. L. 103-446, §1201(c)(1)(A), substituted "an Under Secretary" for "a Under Secretary".

Subsec. (d)(2)(F). Pub. L. 103-446, §1201(c)(1)(B), (e)(2), substituted "Chief Medical Director of the Veterans' Administration" for "Under Secretary for Health of the Department)" and "commission" for "Commission".

1992—Pub. L. 102-405 substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

1991—Subsec. (d)(2)(F). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".