

Evaluation Program of the Department of Defense and that is presumed under section 721(d) of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. 1074 note) to be a result of service in the Southwest Asia theater of operations during the Persian Gulf Conflict; or

(B) that the member registered before September 1, 1997, in the Persian Gulf War Veterans Health Registry maintained by the Department of Veterans Affairs pursuant to section 702 of the Persian Gulf War Veterans' Health Status Act (38 U.S.C. 527 note).

(Added Pub. L. 105-85, div. A, title VII, § 764(a), Nov. 18, 1997, 111 Stat. 1825.)

Editorial Notes

REFERENCES IN TEXT

Section 721(d) of the National Defense Authorization Act for Fiscal Year 1995, referred to in subsec. (c)(2)(A), is section 721(d) of Pub. L. 103-337, which is set out as a note under section 1074 of this title.

Section 702 of the Persian Gulf War Veterans' Health Status Act, referred to in subsec. (c)(2)(B), is section 702 of Pub. L. 102-585, which is set out as a note under section 527 of Title 38, Veterans' Benefits.

§ 1074f. Medical tracking system for members deployed overseas

(a) **SYSTEM REQUIRED.**—The Secretary of Defense shall establish a system to assess the medical condition of members of the armed forces (including members of the reserve components) who are deployed outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or combat operation.

(b) **ELEMENTS OF SYSTEM.**—(1)(A) The system described in subsection (a) shall include the use of predeployment medical examinations and postdeployment medical examinations (including the assessment of mental health and the drawing of blood samples) and postdeployment health reassessments to—

(i) accurately record the health status of members before their deployment;

(ii) accurately record any changes in their health status during the course of their deployment;

(iii) identify health concerns, including mental health concerns, that may become manifest several months following their deployment; and

(iv) accurately record any exposure to occupational and environmental health risks during the course of their deployment.

(B) The postdeployment medical examination shall be conducted when the member is redeployed or otherwise leaves an area in which the system is in operation (or as soon as possible thereafter).

(C) The postdeployment health reassessment shall be conducted at an appropriate time during the period beginning 90 days after the member is redeployed and ending 180 days after the member is redeployed.

(2) The predeployment medical examination, postdeployment medical examination, and postdeployment health reassessment of a mem-

ber of the armed forces required under paragraph (1) shall include the following:

(A) An assessment of the current treatment of the member and any use of psychotropic medications by the member for a mental health condition or disorder.

(B) An assessment of traumatic brain injury.

(C) An assessment of post-traumatic stress disorder.

(D) An assessment of whether the member was—

(i) based or stationed at a location where an open burn pit, as defined in subsection (c) of section 201 of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (Public Law 112-260; 38 U.S.C. 527 note), was used; or

(ii) exposed to toxic airborne chemicals or other airborne contaminants, including any information recorded as part of the registry established by the Secretary of Veterans Affairs under such section 201.

(3)(A) The Secretary shall establish for purposes of subparagraphs (B) and (C) of paragraph (2) a protocol for the predeployment assessment and documentation of the cognitive (including memory) functioning of a member who is deployed outside the United States in order to facilitate the assessment of the postdeployment cognitive (including memory) functioning of the member.

(B) The protocol under subparagraph (A) shall include appropriate mechanisms to permit the differential diagnosis of traumatic brain injury in members returning from deployment in a combat zone.

(c) **RECORDKEEPING.**—The results of all medical examinations and reassessments conducted under the system, records of all health care services (including immunizations and the prescription and administration of psychotropic medications) received by members described in subsection (a) in anticipation of their deployment or during the course of their deployment, and records of events occurring in the deployment area (including the results of any assessment performed by the Secretary of occupational and environmental health risks for such area) that may affect the health of such members shall be retained and maintained in a centralized location to improve future access to the records.

(d) **QUALITY ASSURANCE.**—(1) The Secretary of Defense shall establish a quality assurance program to evaluate the success of the system in ensuring that members described in subsection (a) receive predeployment medical examinations, postdeployment medical examinations, and postdeployment health reassessments and that the recordkeeping requirements with respect to the system are met.

(2) The quality assurance program established under paragraph (1) shall also include the following elements:

(A) The types of healthcare providers conducting postdeployment health assessments and reassessments.

(B) The training received by such providers applicable to the conduct of such assessments and reassessments, including training on assessments and referrals relating to mental health.

(C) The guidance available to such providers on how to apply the clinical practice guidelines developed under subsection (e)(1) in determining whether to make a referral for further evaluation of a member of the armed forces relating to mental health.

(D) The effectiveness of the tracking mechanisms required under this section in ensuring that members who receive referrals for further evaluations relating to mental health receive such evaluations and obtain such care and services as are warranted.

(E) Programs established for monitoring the mental health of each member who, after deployment to a combat operation or contingency operations, is known—

(i) to have a mental health condition or disorder; or

(ii) to be receiving treatment, including psychotropic medications, for a mental health condition or disorder.

(F) The diagnosis and treatment of traumatic brain injury and post-traumatic stress disorder.

(e) **CRITERIA FOR REFERRAL FOR FURTHER EVALUATIONS.**—The system described in subsection (a) shall include—

(1) development of clinical practice guidelines to be utilized by healthcare providers in determining whether to refer a member of the armed forces for further evaluation relating to mental health (including traumatic brain injury);

(2) mechanisms to ensure that healthcare providers are trained in the application of such clinical practice guidelines; and

(3) mechanisms for oversight to ensure that healthcare providers apply such guidelines consistently.

(f) **MINIMUM STANDARDS FOR DEPLOYMENT.**—(1) The Secretary of Defense shall prescribe in regulations minimum standards for mental health for the eligibility of a member of the armed forces for deployment to a combat operation or contingency operation.

(2) The standards required by paragraph (1) shall include the following:

(A) A specification of the mental health conditions, treatment for such conditions, and receipt of psychotropic medications for such conditions that preclude deployment of a member of the armed forces to a combat operation or contingency operation, or to a specified type of such operation.

(B) Guidelines for the deployability and treatment of members of the armed forces diagnosed with a severe mental illness, traumatic brain injury, or post traumatic stress disorder.

(3) The Secretary shall take appropriate actions to ensure the utilization of the standards prescribed under paragraph (1) in the making of determinations regarding the deployability of members of the armed forces to a combat operation or contingency operation.

(g) **ADDITIONAL REQUIREMENTS FOR POSTDEPLOYMENT MEDICAL EXAMINATIONS AND HEALTH REASSESSMENTS.**—(1) The Secretary of Defense shall standardize and make available to

a provider that conducts a postdeployment medical examination or reassessment under the system described in subsection (a) questions relating to occupational and environmental health exposure.

(2) The Secretary, to the extent practicable, shall ensure that the medical record of a member includes information on the external cause relating to a diagnosis of the member, including by associating an external cause code (as issued under the International Statistical Classification of Diseases and Related Health Problems, 10th Revision (or any successor revision)).

(Added Pub. L. 105–85, div. A, title VII, §765(a)(1), Nov. 18, 1997, 111 Stat. 1826; amended Pub. L. 109–364, div. A, title VII, §738(a)–(d), Oct. 17, 2006, 120 Stat. 2303; Pub. L. 110–181, div. A, title XVI, §1673(a)(1), (b), (c), Jan. 28, 2008, 122 Stat. 482, 483; Pub. L. 111–84, div. A, title X, §1073(a)(9), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 111–383, div. A, title VII, §712, Jan. 7, 2011, 124 Stat. 4247; Pub. L. 116–92, div. A, title VII, §§704(c), 705(a), (b), Dec. 20, 2019, 133 Stat. 1438–1440.)

Editorial Notes

AMENDMENTS

2019—Subsec. (b)(1)(A)(iv). Pub. L. 116–92, §705(a)(1), added cl. (iv).

Subsec. (b)(2)(D). Pub. L. 116–92, §704(c), added subpar. (D).

Subsec. (c). Pub. L. 116–92, §705(a)(2), inserted “(including the results of any assessment performed by the Secretary of occupational and environmental health risks for such area)” after “deployment area”.

Subsec. (g). Pub. L. 116–92, §705(b), added subsec. (g).

2011—Subsec. (b)(1). Pub. L. 111–383, §712(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The system described in subsection (a) shall include the use of predeployment medical examinations and postdeployment medical examinations (including an assessment of mental health and the drawing of blood samples) to accurately record the medical condition of members before their deployment and any changes in their medical condition during the course of their deployment. The postdeployment examination shall be conducted when the member is redeployed or otherwise leaves an area in which the system is in operation (or as soon as possible thereafter).”

Subsec. (b)(2). Pub. L. 111–383, §712(b), substituted “medical examination, postdeployment medical examination, and postdeployment health reassessment” for “and postdeployment medical examination” in introductory provisions.

Subsec. (c). Pub. L. 111–383, §712(c), inserted “and reassessments” after “medical examinations” and “and the prescription and administration of psychotropic medications” after “including immunizations”.

Subsec. (d)(1). Pub. L. 111–383, §712(d)(1), substituted “, postdeployment medical examinations, and postdeployment health reassessments” for “and postdeployment medical examinations”.

Subsec. (d)(2)(A). Pub. L. 111–383, §712(d)(2)(A), inserted “and reassessments” after “postdeployment health assessments”.

Subsec. (d)(2)(B). Pub. L. 111–383, §712(d)(2)(B), inserted “and reassessments” after “such assessments”.

2009—Subsec. (f)(3). Pub. L. 111–84 substituted “contingency” for “contingency”.

2008—Subsec. (b)(2)(C). Pub. L. 110–181, §1673(a)(1)(A), added subpar. (C).

Subsec. (b)(3). Pub. L. 110–181, §1673(a)(1)(B), added par. (3).

Subsec. (d)(2)(F). Pub. L. 110–181, §1673(b), added subpar. (F).

Subsec. (f). Pub. L. 110–181, §1673(c)(1), struck out “Mental Health” after “Minimum” in heading.

Subsec. (f)(2)(B). Pub. L. 110-181, § 1673(c)(2), substituted “, traumatic brain injury, or” for “or”.

2006—Subsec. (b). Pub. L. 109-364, § 738(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 109-364, § 738(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 109-364, § 738(b), added subsec. (e).

Subsec. (f). Pub. L. 109-364, § 738(c), added subsec. (f).

Statutory Notes and Related Subsidiaries

INCLUSION OF INFORMATION ON EXPOSURE TO OPEN BURN PITS IN POSTDEPLOYMENT HEALTH REASSESSMENTS

Pub. L. 116-283, div. A, title VII, § 721, Jan. 1, 2021, 134 Stat. 3698, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall include in postdeployment health reassessments conducted under section 1074f of title 10, United States Code, pursuant to a Department of Defense Form 2796, or successor form, an explicit question regarding exposure of members of the Armed Forces to open burn pits.

“(b) INCLUSION IN ASSESSMENTS BY MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that the Secretary of each military department includes a question regarding exposure of members of the Armed Forces to open burn pits in any electronic postdeployment health assessment conducted by that military department.

“(c) OPEN BURN PIT DEFINED.—In this section, the term ‘open burn pit’ has the meaning given that term in section 201(c) of the Dignified Burial and Other Veterans’ Benefits Improvement Act of 2012 (Public Law 112-260; 38 U.S.C. 527 note).”

EXPOSURE TO OPEN BURN PITS AND TOXIC AIRBORNE CHEMICALS OR OTHER AIRBORNE CONTAMINANTS AS PART OF PERIODIC HEALTH ASSESSMENTS AND OTHER PHYSICAL EXAMINATIONS

Pub. L. 116-92, div. A, title VII, § 704, Dec. 20, 2019, 133 Stat. 1438, provided that:

“(a) PERIODIC HEALTH ASSESSMENT.—The Secretary of Defense shall ensure that any periodic health assessment provided to members of the Armed Forces includes an evaluation of whether the member has been—

“(1) based or stationed at a location where an open burn pit was used; or

“(2) exposed to toxic airborne chemicals or other airborne contaminants, including any information recorded as part of the Airborne Hazards and Open Burn Pit Registry.

“(b) SEPARATION HISTORY AND PHYSICAL EXAMINATIONS.—[Amended section 1145 of this title.]

“(c) DEPLOYMENT ASSESSMENTS.—[Amended this section.]

“(d) SHARING OF INFORMATION.—

“(1) DOD-VA.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly enter into a memorandum of understanding providing for the sharing by the Department of Defense with the Department of Veterans Affairs of the results of covered evaluations regarding the exposure by a member of the Armed Forces to toxic airborne chemicals or other airborne contaminants.

“(2) REGISTRY.—If a covered evaluation of a member of the Armed Forces establishes that the member was based or stationed at a location where an open burn pit was used or that the member was exposed to toxic airborne chemicals or other airborne contaminants, the member shall be enrolled in the Airborne Hazards and Open Burn Pit Registry unless the member elects to not so enroll.

“(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to preclude eligibility for benefits under the laws administered by the Secretary of Veterans Affairs by reason of the open burn pit exposure history of a veteran not being recorded in a covered evaluation.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘Airborne Hazards and Open Burn Pit Registry’ means the registry established by the Secretary of Veterans Affairs under section 201 of the Dignified Burial and Other Veterans’ Benefits Improvement Act of 2012 (Public Law 112-260; 38 U.S.C. 527 note).

“(2) The term ‘covered evaluation’ means—

“(A) a periodic health assessment conducted in accordance with subsection (a);

“(B) a separation history and physical examination conducted under section 1145(a)(5) of title 10, United States Code, as amended by this section; and

“(C) a deployment assessment conducted under section 1074f(b)(2) of such title, as amended by this section.

“(3) The term ‘open burn pit’ has the meaning given that term in section 201(c) of the Dignified Burial and Other Veterans’ Benefits Improvement Act of 2012 (Public Law 112-260; 38 U.S.C. 527 note).”

SHARING BETWEEN DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS OF RECORDS AND INFORMATION RETAINED UNDER THE MEDICAL TRACKING SYSTEM FOR MEMBERS OF THE ARMED FORCES DEPLOYED OVERSEAS

Pub. L. 112-239, div. A, title VII, § 723, Jan. 2, 2013, 126 Stat. 1805, provided that:

“(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly enter into a memorandum of understanding providing for the sharing by the Department of Defense with the Department of Veterans Affairs of the results of examinations and other records on members of the Armed Forces that are retained and maintained with respect to the medical tracking system for members deployed overseas under section 1074f(c) of title 10, United States Code.

“(b) CESSATION UPON IMPLEMENTATION OF ELECTRONIC HEALTH RECORD.—The sharing required pursuant to subsection (a) shall cease on the date on which the Secretary of Defense and the Secretary of Veterans Affairs jointly certify to Congress that the Secretaries have fully implemented an integrated electronic health record for members of the Armed Forces that is fully interoperable between the Department of Defense and the Department of Veterans Affairs.”

COMPREHENSIVE POLICY ON CONSISTENT NEUROLOGICAL COGNITIVE ASSESSMENTS OF MEMBERS OF THE ARMED FORCES BEFORE AND AFTER DEPLOYMENT

Pub. L. 111-383, div. A, title VII, § 722, Jan. 7, 2011, 124 Stat. 4251, provided that:

“(a) COMPREHENSIVE POLICY REQUIRED.—Not later than January 31, 2011, the Secretary of Defense shall develop and implement a comprehensive policy on consistent neurological cognitive assessments of members of the Armed Forces before and after deployment.

“(b) UPDATES.—The Secretary shall revise the policy required by subsection (a) on a periodic basis in accordance with experience and evolving best practice guidelines.”

MENTAL HEALTH ASSESSMENTS FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN CONNECTION WITH A CONTINGENCY OPERATION

Pub. L. 111-84, div. A, title VII, § 708, Oct. 28, 2009, 123 Stat. 2376, which required the Secretary of Defense to issue guidance for the provision of mental health assessments for members of the Armed Forces deployed in connection with a contingency operation, was repealed by Pub. L. 112-81, div. A, title VII, § 702(b), Dec. 31, 2011, 125 Stat. 1471.

ADMINISTRATION AND PRESCRIPTION OF PSYCHOTROPIC MEDICATIONS FOR MEMBERS OF THE ARMED FORCES BEFORE AND DURING DEPLOYMENT

Pub. L. 111-84, div. A, title VII, § 712, Oct. 28, 2009, 123 Stat. 2379, provided that:

“(a) REPORT REQUIRED.—Not later than October 1, 2010, the Secretary of Defense shall submit to the con-

gressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the implementation of policy guidance dated November 7, 2006, regarding deployment-limiting psychiatric conditions and medications.

“(b) POLICY REQUIRED.—Not later than October 1, 2010, the Secretary shall establish and implement a policy for the use of psychotropic medications for deployed members of the Armed Forces. The policy shall, at a minimum, address the following:

“(1) The circumstances or diagnosed conditions for which such medications may be administered or prescribed.

“(2) The medical personnel who may administer or prescribe such medications.

“(3) The method in which the administration or prescription of such medications will be documented in the medical records of members of the Armed Forces.

“(4) The exam, treatment, or other care that is required following the administration or prescription of such medications.”

PILOT PROJECTS

Pub. L. 110-181, div. A, title XVI, §1673(a)(2), Jan. 28, 2008, 122 Stat. 482, directed the Secretary of Defense to conduct three pilot projects to evaluate mechanisms for use in developing the traumatic brain injury assessment protocol required by section 1074f(b)(3) of this title and, upon the completion of the projects, required a report to Congress within 60 days and implementation of the selected mechanism within 180 days.

IMPLEMENTATION

Pub. L. 109-364, div. A, title VII, §738(f), Oct. 17, 2006, 120 Stat. 2304, provided that: “The Secretary of Defense shall implement the requirements of the amendments made by this section [amending this section] not later than six months after the date of the enactment of this Act [Oct. 17, 2006].”

INTERIM STANDARDS FOR BLOOD SAMPLING

Pub. L. 108-375, div. A, title VII, §733(b), Oct. 28, 2004, 118 Stat. 1998, as amended by Pub. L. 109-364, div. A, title X, §1071(g)(9), Oct. 17, 2006, 120 Stat. 2402, provided that:

“(1) TIME REQUIREMENTS.—Subject to paragraph (2), the Secretary of Defense shall require that—

“(A) the blood samples necessary for the predeployment medical examination of a member of the Armed Forces required under section 1074f(b) of title 10, United States Code, be drawn not earlier than 120 days before the date of the deployment; and

“(B) the blood samples necessary for the postdeployment medical examination of a member of the Armed Forces required under such section 1074f(b) of such title be drawn not later than 30 days after the date on which the deployment ends.

“(2) CONTINGENT APPLICABILITY.—The standards under paragraph (1) shall apply unless the Joint Medical Readiness Oversight Committee established by section 731(b) [10 U.S.C. 1074 note] recommends, and the Secretary approves, different standards for blood sampling.”

§ 1074g. Pharmacy benefits program

(a) PHARMACY BENEFITS.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall establish an effective, efficient, integrated pharmacy benefits program under this chapter (hereinafter in this section referred to as the “pharmacy benefits program”).

(2)(A) The pharmacy benefits program shall include a uniform formulary of pharmaceutical agents, which shall assure the availability of

pharmaceutical agents in the complete range of therapeutic classes. The selection for inclusion on the uniform formulary of particular pharmaceutical agents in each therapeutic class shall be based on the relative clinical and cost effectiveness of the agents in such class. With respect to members of the uniformed services, such uniform formulary shall include pharmaceutical agents on the joint uniform formulary established under section 715 of the National Defense Authorization Act for Fiscal Year 2016.

(B) In considering the relative clinical effectiveness of agents under subparagraph (A), the Secretary shall presume inclusion in a therapeutic class of a pharmaceutical agent, unless the Pharmacy and Therapeutics Committee established under subsection (b) finds that a pharmaceutical agent does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over the other drugs included on the uniform formulary.

(C) In considering the relative cost effectiveness of agents under subparagraph (A), the Secretary shall rely on the evaluation by the Pharmacy and Therapeutics Committee of the costs of agents in a therapeutic class in relation to the safety, effectiveness, and clinical outcomes of such agents.

(D) The Secretary shall establish procedures for the selection of particular pharmaceutical agents for the uniform formulary. Such procedures shall be established so as best to accomplish, in the judgment of the Secretary, the objectives set forth in paragraph (1). Except as provided in subparagraph (F), no pharmaceutical agent may be excluded from the uniform formulary except upon the recommendation of the Pharmacy and Therapeutics Committee.

(E) Pharmaceutical agents included on the uniform formulary shall be available to eligible covered beneficiaries through—

(i) facilities of the uniformed services, consistent with the scope of health care services offered in such facilities and additional determinations by the Pharmacy and Therapeutics Committee of the relative clinical and cost effectiveness of the agents;

(ii) retail pharmacies designated or eligible under the TRICARE program or the Civilian Health and Medical Program of the Uniformed Services to provide pharmaceutical agents to covered beneficiaries; or

(iii) the national mail-order pharmacy program.

(F)(i) The Secretary may implement procedures to place selected over-the-counter drugs on the uniform formulary and to make such drugs available to eligible covered beneficiaries. An over-the-counter drug may be included on the uniform formulary only if the Pharmacy and Therapeutics Committee established under subsection (b) finds that the over-the-counter drug is cost effective and clinically effective. If the Pharmacy and Therapeutics Committee recommends an over-the-counter drug for inclusion on the uniform formulary, the drug shall be considered to be in the same therapeutic class of pharmaceutical agents, as determined by the Committee, as similar prescription drugs.

(ii) Regulations prescribed by the Secretary to carry out clause (i) shall include the following