

S 2969

Veterans Health Care Authorization Act of 2008

**Congress:** 110 (2007–2009, Ended)

**Chamber:** Senate

**Policy Area:** Armed Forces and National Security

**Introduced:** May 1, 2008

**Current Status:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 1034.

**Latest Action:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 1034. (Sep 18, 2008)

**Official Text:** <https://www.congress.gov/bill/110th-congress/senate-bill/2969>

Sponsor

**Name:** Sen. Akaka, Daniel K. [D-HI]

**Party:** Democratic • **State:** HI • **Chamber:** Senate

Cosponsors

No cosponsors are listed for this bill.

Committee Activity

Committee	Chamber	Activity	Date
Veterans' Affairs Committee	Senate	Reported By	Sep 18, 2008

Subjects & Policy Tags

**Policy Area:**

Armed Forces and National Security

Related Bills

Bill	Relationship	Last Action
110 HR 6153	Identical bill	<b>May 22, 2008:</b> Referred to the House Committee on Veterans' Affairs.

Veterans Health Care Authorization Act of 2008 - **Title I: Department Personnel Matters** - (Sec. 101) Authorizes the Secretary of Veterans Affairs to appoint personnel for health care positions within the Veterans Health Administration (VHA) of the Department of Veterans Affairs (VA) not specifically listed in authorized classes for appointment, as long as the Secretary provides prior notification to the congressional veterans committees and the Office of Management and Budget (OMB). Requires, before submitting notification, the Secretary to solicit comments from any labor organization representing employees in any such class and include such comments in such notification.

Makes the probationary period after appointment as a registered nurse the period considered appropriate by the Secretary, but not to exceed 4,180 hours. Provides that an appointment on a part-time basis of a VHA health care professional who has previously served on a full-time basis shall be without a probationary period. Limits to 4,180 hours the probationary period for the appointment of a registered nurse on a temporary, part-time basis, after which time the appointment shall be considered permanent.

Authorizes the Secretary to waive, on a case-by-case basis, the application of salary offsets for VHA retirees reemployed in the VHA. Bases the rate of basic pay for appointees to the Office of the Under Secretary for Health on pay levels in the Senior Executive Service for equivalent positions. Allows for the payment of: (1) comparability pay of up to \$100,000 annually for Office positions which are not physicians or dentists; and (2) special incentive pay of up to \$40,000 annually for a VHA pharmacist executive.

Removes, adjusts, or waives certain pay restrictions, including on the non-foreign cost-of-living adjustment, market pay, and basic and locality pay, for VHA: (1) physicians and dentists; (2) physicians or dentists occupying administrative or executive leadership positions; (3) nurses; and (4) certified registered nurse anesthetists. Requires additional training, education, and support for appropriate VHA employees in the conduct and use of locality pay scale surveys. Requires VHA facility wage-related information, currently provided by way of reports from facility directors to the Secretary, to be made available, upon request, to individuals in VHA positions covered by such report.

Increases from \$25,000 to \$100,000 the special pay for nurse executives. Makes part-time nurses eligible for additional premium nurse pay. Adds nurse service in excess of eight consecutive hours to the services eligible for additional overtime pay. Adds licensed practical nurses, licensed vocational nurses, and certain other nurse positions to those positions exempted from limitations on increases in basic pay rates.

(Sec. 102) Prohibits: (1) the Secretary from requiring nursing staff to work more than 40 hours in a week or eight hours in a day (12 hours in the case of three-day workweeks), except under non-recurring emergency circumstances; and (2) discrimination or adverse personnel actions against nurse staff who refuse to work such additional hours. Revises the calculation of leave for nurses working two 12-hour shifts on a weekend. Redefines the VHA alternative work schedule for nurses as six 12-hours shifts within an 80-hour pay period (as opposed to three 12-hour shifts within a work week).

(Sec. 103) Reinstates through 2013 the VA's health professionals educational assistance scholarship program. Revises the VA's education debt reduction program to: (1) add recruitment as a program purpose; (2) allow all (under current law, only recently appointed) employees to participate; and (3) increase maximum amounts of program assistance. Authorizes the Secretary to utilize certain authorities under the Public Health Service Act to repay educational loans of qualified health professionals from disadvantaged backgrounds in order to secure VHA clinical research by such professionals.

(Sec. 104) Directs the Secretary to prescribe standards for appointment and practice as a physician within the VHA.

Requires: (1) applicants to provide certain information, including each lawsuit, civil action, or other claim against the individual for medical malpractice or negligence, and the results thereof; (2) each appointee to disclose any judgments against the individual for medical malpractice or negligence and any payments made; (3) physicians already employed within the VHA to disclose such information; and (4) the Veterans Integrated Services Network (Network) director in the region in which the physician seeks employment to investigate the information disclosed by such physician. Prohibits a new appointment without the approval of the appropriate Network regional director. Requires each VHA medical facility to enroll practicing physicians in the Proactive Disclosure Service of the National Practitioners Database. Encourages the hiring of physicians who are board-certified or eligible for such certification in their field.

**Title II: Health Care Matters** - (Sec. 201) Makes permanent the temporary authority to consider noninstitutional extended care services as covered VA medical services.

(Sec. 202) Extends through: (1) 2013 VA authority to provide nursing home care to veterans with service-connected disabilities rated at 70% or higher, and to veterans in need of nursing home care for their service-connected disabilities; and (2) FY2013 VA authority to conduct audits of payments made for non-VA care and services furnished to veterans through contracts and fee-based arrangements.

(Sec. 203) Makes permanent (under current law, expires at the end of 2008) the authority to provide hospital care, medical services, and nursing home care to certain veterans who participated in Department of Defense (DOD) chemical and biological testing.

(Sec. 204) Repeals the requirement for annual reports concerning: (1) pay adjustments for registered nurses; and (2) VA long-range health planning.

(Sec. 205) Changes the due date of an annual report to Congress concerning research on the health effects of military service during the Persian Gulf War, and terminates such report after July, 2013.

(Sec. 206) Provides that VA payments made to providers who furnish medical care to a veteran's beneficiary under the Civilian Health and Medical Program of the Veterans Administration (CHAMPVA) shall constitute payment in full (thereby extinguishing the beneficiary's liability to that provider).

(Sec. 207) Provides third-party payment authority, when payment by the VA is less than the amount billed, with respect to care furnished to spina bifida-affected children of Vietnam veterans and to children of women Vietnam veterans born with other birth defects.

(Sec. 208) Authorizes disclosure of VA medical information to a representative of a patient who lacks decision-making capacity.

(Sec. 209) Requires VA patients to disclose health-plan information and their Social Security number. Authorizes the Secretary to deny or terminate medical care and services (with an exception for medical emergencies) to individuals who do not provide such information.

(Sec. 210) Requires: (1) the VHA's Under Secretary of Health to designate a National Quality Assurance Officer for the VHA quality assurance program; (2) each Network regional director to appoint a quality assurance officer; and (3) the director of each VHA medical facility to appoint a quality assurance officer. Outlines duties for each officer. Directs the: (1) Under Secretary to establish mechanisms through which VHA employees may submit confidential reports on matters relating to quality of care in VHA facilities to the designated quality assurance officers; and (2) Secretary to review, and

report to Congress on, current policies and protocols for maintaining health care quality and patient safety at VA medical facilities.

(Sec. 211) Requires a report from the Secretary to the veterans committees on the implementation of provisions of this Act (sections 104 and 210) concerning: (1) standards for the appointment and practice of physicians in VA medical facilities; and (2) the enhancement of VHA medical quality assurance through the appointment of quality assurance officers.

(Sec. 212) Directs the Secretary to carry out a three-year pilot program to assess the feasibility and advisability of providing training and certification for family caregivers of veterans and members of the Armed Forces with traumatic brain injury (TBI) as personal care attendants. Makes a caregiver who receives certification as a personal care attendant eligible for compensation from the VA for the care provided. Requires a pilot program report from the Secretary to Congress.

(Sec. 213) Directs the Secretary to conduct a three-year pilot program at up to ten locations to assess the feasibility and advisability of providing respite care to members and veterans diagnosed with TBI, through students enrolled in graduate mental health or rehabilitation programs, to provide: (1) relief to the family caregivers; and (2) socialization and cognitive skill development to such members and veterans.

(Sec. 214) Directs the Secretary to: (1) conduct a two-year pilot program to assess the feasibility and advisability of using community-based organizations and local and state governmental entities to ensure that veterans receive the care and benefits for which they are eligible, including while transitioning from military service to civilian life; and (2) report to Congress on the pilot program.

(Sec. 215) Authorizes the Secretary to contract with appropriate entities to provide specialized residential care and rehabilitation services to a veteran of Operations Enduring Freedom or Iraqi Freedom who suffers from a TBI, has an accumulation of deficits in activities of daily living and instrumental activities of daily living and, because of these deficits, would otherwise require nursing home admission even though such care would generally exceed the veteran's nursing needs.

(Sec. 216) Exempts hospice care from the requirement to pay copayments in connection with hospital or nursing home care or medical services.

(Sec. 217) Repeals a provision that prohibits the Secretary from performing widespread human immunodeficiency virus (HIV) testing while allowing voluntary testing of certain individuals after receiving written consent (instead allowing such testing after the receipt of informed verbal consent).

(Sec. 218) Authorizes the Secretary to disclose to third-party insurance providers the name and address of present or former members and their dependents in order to collect charges for VA care or services provided for a non-service-connected disability.

(Sec. 219) Directs the Secretary to contract with the Institute of Medicine of the National Academies to conduct an expanded study on the health impact of Project Shipboard Hazard and Defense (SHAD). Requires the study to include, as practicable, all veterans who participated in Project SHAD.

(Sec. 220) Authorizes the Secretary to utilize non-VA facilities for the care and treatment of veterans suffering from TBI when the Secretary: (1) is unable to provide such treatment or services at the frequency or for the duration necessary; or

(2) determines that it is optimal to the veteran's recovery and rehabilitation. Requires the non-VA facility selected to maintain care standards established by an independent, peer-reviewed organization that accredits specialized rehabilitation programs for adults with TBI.

(Sec. 221) Provides for treatment of a health facility of a tribal organization as a state home for purposes of grant payments to such homes for veterans' domiciliary care, nursing home care, and hospital care. Exempts a health facility of a tribal organization from the prohibition against the Secretary treating a new facility as a state home after September 30, 2009. Authorizes the Secretary to make grants to assist tribal organizations in constructing or acquiring facilities in order to furnish domiciliary or nursing home care to veterans and in expanding, remodeling, or altering existing buildings in order to furnish domiciliary care, nursing home care, adult day health care, or hospital care to veterans in homes.

(Sec. 222) Amends the Veterans Benefits, Health Care, and Information Technology Act of 2006 to extend through FY2009 its pilot program on caregiver assistance services.

(Sec. 223) Directs the Secretary to conduct a three-year pilot program to assess the feasibility and advisability of providing a dental insurance plan for any veteran enrolled in the VA annual patient enrollment system, as well as survivors and dependents eligible for VA medical care. Provides for: (1) voluntary plan enrollment and disenrollment; and (2) the payment of plan premiums.

**Title III: Women Veterans Health Care** - (Sec. 301) Requires the Secretary to report to the veterans committees on barriers to the receipt of comprehensive health care through the VA encountered by women veterans, especially those of Operations Iraqi Freedom or Enduring Freedom.

(Sec. 302) Directs the Secretary to: (1) develop a plan to improve the provision of health care services to women veterans, and to plan appropriately for the future health care needs of women serving on active duty in Operations Iraqi Freedom and Enduring Freedom; and (2) submit such plan to the veterans committees.

(Sec. 303) Requires the: (1) Secretary to contract with a non-VA entity for an independent study on health consequences of women veterans of active-duty service in Operations Iraqi Freedom and Enduring Freedom; (2) entity chosen to report study results to the Secretary; and (3) Secretary to submit such results to Congress.

(Sec. 304) Directs the Secretary to: (1) implement a program for education, training, certification, and continuing medical education for mental health professionals specializing in the provision of counseling and care to veterans suffering from sexual trauma; and (2) report annually to Congress on the counseling and care provided.

(Sec. 305) Requires the Secretary to: (1) conduct a two-year pilot program to evaluate the feasibility and advisability of providing reintegration and readjustment services in group retreat settings to women veterans recently separated from military service after a prolonged deployment; and (2) report to Congress on the pilot program. Authorizes appropriations.

(Sec. 306) Directs the Secretary to report to Congress on employment of full-time women veteran program managers at VA medical centers to ensure that health care needs of women veterans are met.

(Sec. 307) Requires the inclusion on the: (1) Advisory Committee on Women Veterans of women veterans recently separated from service; and (2) Advisory Committee on Minority Veterans of minority women veterans recently separated from service.

(Sec. 308) Directs the Secretary to: (1) carry out a two-year pilot program to assess the feasibility and advisability of providing subsidies to veterans receiving regular and intensive mental health services and other intensive health care

services in order to obtain child care while receiving such services; and (2) report to Congress on the pilot program. Authorizes appropriations.

(Sec. 309) Authorizes the Secretary to furnish care to a newborn child of a woman veteran receiving VA maternity care for up to seven days after the birth of the child.

**Title IV: Mental Health Care** - (Sec. 401) Makes any member who serves in Operations Iraqi Freedom or Enduring Freedom eligible for readjustment counseling and related mental health services through Vet Centers (centers for readjustment counseling and related mental health services for veterans), regardless of whether the member is on active duty at the time of receipt of such counseling and services.

(Sec. 402) Directs the Secretary, upon receipt of a request for counseling from an individual who has been discharged or released from active service, to: (1) provide referrals to assist the individual in obtaining mental health care and services outside the VA; and (2) if pertinent, advise such individual of the right to apply for review of the discharge or release.

(Sec. 403) Requires the Secretary to: (1) conduct a study to determine the number of veterans who died by suicide between January 1, 1997, and the date of enactment of this Act; and (2) report study results to the veterans committees. Authorizes appropriations.

(Sec. 404) Directs the Secretary to transfer specified VHA funds to the Secretary of Health and Human Services for the Graduate Psychology Education program established under the Public Health Service Act. Requires such funds to be used to award grants to support the training of psychologists in the treatment of veterans with post-traumatic stress disorder (PTSD), TBI, and other combat-related disorders. Provides a preference for VA health care facilities in the awarding of such grants.

**Title V: Homeless Veterans** - (Sec. 501) Authorizes the Secretary to carry out a five-year pilot program to make grants to public and nonprofit organizations to coordinate the provision of supportive services to very low income, formerly homeless veterans residing in permanent housing on property that was part of a military installation that was closed and that has a redevelopment plan that includes use of the property for homeless veterans. Authorizes appropriations.

(Sec. 502) Authorizes the Secretary to carry out a five-year pilot program to make grants to public and nonprofit organizations to coordinate the provision of supportive services to very low income, formerly homeless veterans residing in permanent housing. Authorizes appropriations.

(Sec. 503) Authorizes the Secretary to carry out a five-year pilot program to make grants to public and nonprofit organizations to provide outreach to inform low-income and elderly veterans and their spouses who reside in rural areas of the veterans' pension benefits for which they may be eligible. Authorizes appropriations.

(Sec. 504) Authorizes the Secretary to carry out a three-year pilot program to assess the feasibility and advisability of providing financial assistance to eligible entities to establish new programs or activities, or to expand or modify existing programs or activities, to provide transportation assistance, child care assistance, and clothing assistance to veterans who: (1) are entitled to a VA rehabilitation program; or (2) were separated or release from active duty on or after October 1, 2006, because of a service-connected disability. Authorizes appropriations.

(Sec. 505) Directs the Secretary to submit to Congress progress reports on each of the pilot programs authorized under this title.

(Sec. 506) Increases from \$130 million to \$200 million the annual authorization of appropriations for VA comprehensive

service programs for homeless veterans.

**Title VI: Nonprofit Research and Education Corporations** - (Sec. 601) Amends federal provisions concerning the establishment at VA medical facilities of nonprofit research and education corporations (NRECs) to allow an NREC to facilitate the conduct of research or education, or both, at more than one VA medical center. States that such an NREC shall be known as a multi-medical center research corporation (MCRC). Allows an NREC to act as a MCRC if: (1) the NREC board of directors approve a resolution permitting that NREC to act as a MCRC; and (2) the Secretary approves the resolution. Requires each NREC and MCRC to be established in accordance with the nonprofit laws of the state in which the VA medical center which it supports is located. Prohibits such a corporation from being either: (1) owned or controlled by the United States; or (2) an agent or instrumentality of the United States.

(Sec. 602) Allows NRECs (including MCRCs) to act as flexible funding mechanisms for the conduct of approved research and education (including training) at one or more VA medical centers, and to facilitate functions related to such research and education (thus expanding the authorized role of NRECs from simple financial support of VA research and education). Repeals a provision that allows NRECs to include, under education funding, the employment of individuals as part of a residency or similar program. Authorizes NRECs to provide education and training to veteran patients as well as the families of such patients.

(Sec. 603) Provides authorized membership for boards of directors of MCRCs. Allows non-VA individuals to serve on NREC boards. Eliminates the requirement that members of NREC boards have no financial relationship with any source of funding for VA research or education.

(Sec. 604) Increases authorized corporate powers of NRECs and MCRCs to include entering into contracts and setting fees for education and training facilitated through such corporation.

(Sec. 606) Requires NRECs to include in that NREC's annual report to the Secretary information supplied to the Internal Revenue Service representing its tax-exempt status. Conforms laws and regulations governing conflicts of interests within NRECs to those governing similar entities and those among federal employees. Raises from \$35,000 to \$50,000 the threshold for reporting identifying information of NREC recipients.

(Sec. 607) Repeals the December 31, 2008, sunset on the establishment of new NRECs.

**Title VII: Construction** - (Sec. 701) Authorizes the Secretary to carry out major medical facility projects (projects) in FY2009 in: (1) Palo Alto, California; (2) Lee County, Florida; (3) San Juan, Puerto Rico; and (4) San Antonio, Texas.

(Sec. 702) Authorizes the Secretary to carry out a project in FY2009, as originally authorized under the Veterans Benefits, Health Care, and Information Technology Act of 2006, for the VA medical center in New Orleans, Louisiana.

(Sec. 703) Authorizes the Secretary to carry out specified major medical facility leases (leases) in Arizona, California, Colorado, Florida, Georgia, Ohio, Oregon, Puerto Rico, South Carolina, and Wisconsin.

(Sec. 704) Authorizes appropriations for projects and leases authorized under this title.

(Sec. 705) Increases from \$600,000 to \$1 million the threshold before a VA major medical facility lease must receive congressional approval.

(Sec. 706) Amends the Consolidated Appropriations Act, 2008 to authorize the city of Aurora, Colorado, to convey by donation to the United States nonfederal lands consisting of parcel I of the former United States Army Garrison

Fitzsimons, Colorado, and the parcel of land described in a related quitclaim deed, for construction of a veterans' medical facility.

**Title VIII: Miscellaneous Provisions** - (Sec. 801) Expands the authority of VA police officers to include: (1) carrying VA-issued weapons while off VA property in an official capacity or while on official travel; (2) conducting investigations, on and off VA property, of offenses that may have been committed on VA property; (3) carrying out any VA-authorized duties when engaged in duties authorized by other federal statutes; and (4) serving arrest warrants issued by competent judicial authority.

(Sec. 802) Makes the uniform allowance for VA police officers the lesser of: (1) the amount currently permitted by the Office of Personnel Management (OPM); or (2) estimated or actual costs as determined by periodic VA surveys. Requires the allowance to be paid: (1) at the beginning of the officer's employment, for those appointed on or after October 1, 2008; or (2) in the case of any other officer, upon the officer's request.

(Sec. 803) Prohibits considering a veteran, surviving spouse, or child who is mentally incapacitated, deemed mentally incompetent, or experiencing an extended loss of consciousness from being considered adjudicated as a mental defective for purposes of the right to receive or transport firearms without the order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction that such veteran, surviving spouse, or child is a danger to him- or herself or others.

### **Actions Timeline**

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- **Sep 18, 2008:** Committee on Veterans' Affairs. Reported by Senator Akaka with an amendment in the nature of a substitute and an amendment to the title. With written report No. 110-473. Supplemental views filed.
- **Sep 18, 2008:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 1034.
- **Jun 26, 2008:** Committee on Veterans' Affairs. Ordered to be reported with amendments favorably.
- **May 1, 2008:** Introduced in Senate
- **May 1, 2008:** Sponsor introductory remarks on measure. (CR S3716-3717)
- **May 1, 2008:** Read twice and referred to the Committee on Veterans' Affairs. (text of measure as introduced: CR S3717-3719)