

38 USC 7311: Quality assurance

Text contains those laws in effect on March 29, 2017

From Title 38-VETERANS' BENEFITS

PART V-BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73-VETERANS HEALTH ADMINISTRATION-ORGANIZATION AND FUNCTIONS

SUBCHAPTER II-GENERAL AUTHORITY AND ADMINISTRATION

Jump To:

[Source Credit](#)

[References In Text](#)

[Amendments](#)

[Miscellaneous](#)

[Regulations](#)

§7311. Quality assurance

(a) The Secretary shall-

(1) establish and conduct a comprehensive program to monitor and evaluate the quality of health care furnished by the Veterans Health Administration (hereinafter in this section referred to as the "quality-assurance program"); and

(2) delineate the responsibilities of the Under Secretary for Health with respect to the quality-assurance program, including the duties prescribed in this section.

(b)(1) As part of the quality-assurance program, the Under Secretary for Health shall periodically evaluate-

(A) whether there are significant deviations in mortality and morbidity rates for surgical procedures performed by the Administration from prevailing national mortality and morbidity standards for similar procedures; and

(B) if there are such deviations, whether they indicate deficiencies in the quality of health care provided by the Administration.

(2) The evaluation under paragraph (1)(A) shall be made using the information compiled under subsection (c)(1). The evaluation under paragraph (1)(B) shall be made taking into account the factors described in subsection (c)(2)(B).

(3) If, based upon an evaluation under paragraph (1)(A), the Under Secretary for Health determines that there is a deviation referred to in that paragraph, the Under Secretary for Health shall explain the deviation in the report submitted under subsection (f).¹

(4) As part of the quality-assurance program, the Under Secretary for Health shall establish mechanisms through which employees of Veterans Health Administration facilities may submit reports, on a confidential basis, on matters relating to quality of care in Veterans Health Administration facilities to the quality management officers of such facilities under section 7311A(c) of this title. The mechanisms shall provide for the prompt and thorough review of any reports so submitted by the receiving officials.

(c)(1) The Under Secretary for Health shall-

(A) determine the prevailing national mortality and morbidity standards for each type of surgical procedure performed by the Administration; and

(B) collect data and other information on mortality and morbidity rates in the Administration for each type of surgical procedure performed by the Administration and (with respect to each such procedure) compile the data and other information so collected-

(i) for each medical facility of the Department, in the case of cardiac surgery, heart transplant, and renal transplant programs; and

(ii) in the aggregate, for each other type of surgical procedure.

(2) The Under Secretary for Health shall-

(A) compare the mortality and morbidity rates compiled under paragraph (1)(B) with the national mortality and morbidity standards determined under paragraph (1)(A); and

(B) analyze any deviation between such rates and such standards in terms of the following:

(i) The characteristics of the respective patient populations.

(ii) The level of risk for the procedure involved, based on-

(I) patient age;

(II) the type and severity of the disease;

(III) the effect of any complicating diseases; and

(IV) the degree of difficulty of the procedure.

(iii) Any other factor that the Under Secretary for Health considers appropriate.

(d) Based on the information compiled and the comparisons, analyses, evaluations, and explanations made under subsections (b) and (c), the Under Secretary for Health, in the report under subsection (f),¹ shall make such recommendations with respect to quality assurance as the Under Secretary for Health considers appropriate.

(e)(1) The Secretary shall allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Administration to carry out its responsibilities under this section.

(2) The Inspector General of the Department shall allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Inspector General to monitor the quality-assurance program.

(Added Pub. L. 102–40, title IV, §401(a)(3), May 7, 1991, 105 Stat. 214 ; amended Pub. L. 102–405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984 ; Pub. L. 103–446, title XII, §1201(g)(5), Nov. 2, 1994, 108 Stat. 4687 ; Pub. L. 111–163, title V, §505(b), May 5, 2010, 124 Stat. 1159 .)

REFERENCES IN TEXT

Subsection (f), referred to in subsecs. (b)(3) and (d), was repealed by Pub. L. 103–446, title XII, §1201(g)(5), Nov. 2, 1994, 108 Stat. 4687 .

AMENDMENTS

2010-Subsec. (b)(4). Pub. L. 111–163 added par. (4).

1994-Subsecs. (f), (g). Pub. L. 103–446 struck out subsecs. (f) and (g) which read as follows:

"(f)(1) Not later than February 1, 1991, the Under Secretary for Health shall submit to the Secretary a report on the experience through the end of the preceding fiscal year under the quality-assurance program carried out under this section.

"(2) Such report shall include-

"(A) the data and other information compiled and the comparisons, analyses, and evaluations made under subsections (b) and (c) with respect to the period covered by the report; and

"(B) recommendations under subsection (d).

"(g)(1) Not later than 60 days after receiving such report, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comment concerning the report that the Secretary considers appropriate.

"(2) A report submitted under paragraph (1) shall not be considered to be a record or document as described in section 5705(a) of this title."

1992-Subsecs. (a) to (d), (f). Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

COMPREHENSIVE POLICY ON PAIN MANAGEMENT

Pub. L. 110–387, title V, §501, Oct. 10, 2008, 122 Stat. 4130 , provided that:

"(a) **COMPREHENSIVE POLICY REQUIRED.**-Not later than October 1, 2009, the Secretary of Veterans Affairs shall develop and implement a comprehensive policy on the management of pain experienced by veterans enrolled for health care services provided by the Department of Veterans Affairs.

"(b) **SCOPE OF POLICY.**-The policy required by subsection (a) shall cover each of the following:

"(1) The Department-wide management of acute and chronic pain experienced by veterans.

"(2) The standard of care for pain management to be used throughout the Department.

"(3) The consistent application of pain assessments to be used throughout the Department.

"(4) The assurance of prompt and appropriate pain care treatment and management by the Department, system-wide, when medically necessary.

"(5) Department programs of research related to acute and chronic pain suffered by veterans, including pain attributable to central and peripheral nervous system damage characteristic of injuries incurred in modern warfare.

"(6) Department programs of pain care education and training for health care personnel of the Department.

"(7) Department programs of patient education for veterans suffering from acute or chronic pain and their families.

"(c) **UPDATES.**-The Secretary shall revise the policy required by subsection (a) on a periodic basis in accordance with experience and evolving best practice guidelines.

"(d) **CONSULTATION.**-The Secretary shall develop the policy required by subsection (a), and revise such policy under subsection (c), in consultation with veterans service organizations and organizations with expertise in the assessment, diagnosis, treatment, and management of pain.

"(e) **ANNUAL REPORT.**-

"(1) **IN GENERAL.**-Not later than 180 days after the date of the completion and initial implementation of the policy required by subsection (a) and on October 1 of every fiscal year thereafter through fiscal year

2018, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the implementation of the policy required by subsection (a).

"(2) CONTENTS.-The report required by paragraph (1) shall include the following:

"(A) A description of the policy developed and implemented under subsection (a) and any revisions to such policy under subsection (c).

"(B) A description of the performance measures used to determine the effectiveness of such policy in improving pain care for veterans system-wide.

"(C) An assessment of the adequacy of Department pain management services based on a survey of patients managed in Department clinics.

"(D) An assessment of the research projects of the Department relevant to the treatment of the types of acute and chronic pain suffered by veterans.

"(E) An assessment of the training provided to Department health care personnel with respect to the diagnosis, treatment, and management of acute and chronic pain.

"(F) An assessment of the patient pain care education programs of the Department.

"(f) VETERANS SERVICE ORGANIZATION DEFINED.-In this section, the term 'veterans service organization' means any organization recognized by the Secretary for the representation of veterans under section 5902 of title 38, United States Code."

EVALUATION OF DEPARTMENT OF VETERANS AFFAIRS NURSE MANAGED CLINICS

Pub. L. 107-135, [title I, §123, Jan. 23, 2002](#), 115 Stat. 2451 , required the Secretary of Veterans Affairs to evaluate the efficacy of the nurse managed health care clinics of the Department of Veterans Affairs and submit to Congress a report on the evaluation not later than 18 months after Jan. 23, 2002.

QUALITY ASSURANCE ACTIVITIES

Pub. L. 102-405, [title I, §104, Oct. 9, 1992](#), 106 Stat. 1975 , provided that: "Effective on October 1, 1992, programs and activities which (1) the Secretary carries out pursuant to section 7311(a) of title 38, United States Code, or (2) are described in sections 201(a)(1) and 201(a)(3) of Public Law 100-322 [formerly set out as a note under former section 4151 of this title] (102 Stat. 508) shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities."

REGULATIONS FOR STANDARDS OF PERFORMANCE IN LABORATORIES

Pub. L. 102-139, [title I, §101, Oct. 28, 1991](#), 105 Stat. 742 , provided that:

"(a) REGULATIONS FOR STANDARDS OF PERFORMANCE IN DEPARTMENT OF VETERANS AFFAIRS LABORATORIES.-(1) Within the 120-day period beginning on the date on which the Secretary of Health and Human Services promulgates final regulations to implement the standards required by section 353 of the Public Health Service Act (42 U.S.C. 263a), the Secretary of Veterans Affairs, in accordance with the Secretary's authority under title 38, United States Code, shall prescribe regulations to assure consistent performance by medical facility laboratories under the jurisdiction of the Secretary of valid and reliable laboratory examinations and other procedures. Such regulations shall be prescribed in consultation with the Secretary of Health and Human Services and shall establish standards equal to that applicable to other medical facility laboratories in accordance with the requirements of section 353(f) of the Public Health Service Act.

"(2) Such regulations-

"(A) may include appropriate provisions respecting waivers described in section 353(d) of such Act and accreditations described in section 353(e) of such Act; and

"(B) shall include appropriate provisions respecting compliance with such requirements.

"(b) REPORT.-Within the 180-day period beginning on the date on which the Secretary of Veterans Affairs prescribes regulations required by subsection (a), the Secretary shall submit to the appropriate committees of the Congress a report on those regulations.

"(c) DEFINITION.-As used in this section, the term 'medical facility laboratories' means facilities for the biological, micro-biological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other physical examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings."

¹ [See References in Text note below.](#)