

118TH CONGRESS  
1ST SESSION

# S. 2745

To amend title 38, United States Code, to eliminate conflicts of interest in conduct of quality management and administrative investigations by the Veterans Health Administration and to limit the detail of directors of medical centers of Department of Veterans Affairs to different positions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2023

Mr. PETERS (for himself and Mr. BOOZMAN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to eliminate conflicts of interest in conduct of quality management and administrative investigations by the Veterans Health Administration and to limit the detail of directors of medical centers of Department of Veterans Affairs to different positions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans Affairs Peer  
5 Review Neutrality Act of 2023”.

1 **SEC. 2. ELIMINATION OF CONFLICTS OF INTEREST IN PEER**  
 2 **REVIEW, ADMINISTRATIVE INVESTIGATION**  
 3 **BOARDS, AND FACTFINDINGS OF VETERANS**  
 4 **HEALTH ADMINISTRATION.**

5 (a) IN GENERAL.—Subchapter II of chapter 73 of  
 6 title 38, United States Code, is amended by inserting after  
 7 section 7311A the following new section:

8 **“§ 7311B. Elimination of conflicts of interest in peer**  
 9 **review, administrative investigation**  
 10 **boards, and factfindings of Veterans**  
 11 **Health Administration**

12 “(a) PEER REVIEW.—

13 “(1) IN GENERAL.—Each individual responsible  
 14 for conducting peer review for quality management  
 15 of care provided by a health care provider at a med-  
 16 ical facility of the Department and each member of  
 17 a peer review committee with respect to quality man-  
 18 agement of such care shall withdraw from participa-  
 19 tion in a case review if—

20 “(A) the individual has direct involvement  
 21 with the care under review; or

22 “(B) the individual is unable to conduct an  
 23 objective, impartial, accurate, and informed re-  
 24 view.

25 “(2) NEUTRAL ASSESSMENT OF CONDUCT OF  
 26 COMMITTEE MEMBERS.—Each medical facility of the

1 Department shall develop procedures and guidelines  
2 for that facility to require that any initial peer re-  
3 view for quality management that is conducted with  
4 respect to care provided by a health care provider  
5 who is a member of the peer review committee for  
6 that facility be evaluated, discussed, and assigned a  
7 final level review by a neutral peer review committee  
8 at another facility of the Department.

9 “(b) ADMINISTRATIVE INVESTIGATION BOARDS AND  
10 FACTFINDINGS.—

11 “(1) KNOWLEDGE OF CONFIDENTIAL INFORMA-  
12 TION.—Individuals with knowledge of confidential  
13 quality assurance information specific to a matter  
14 under investigation by an administrative investiga-  
15 tion board or factfinder with respect to quality man-  
16 agement of care provided by a health care provider  
17 at a medical facility of the Department may not—

18 “(A) serve on the administrative investiga-  
19 tion board or as a factfinder; or

20 “(B) disclose such information to an ad-  
21 ministrative investigation board or a factfinder.

22 “(2) PERSONAL INTEREST, INVOLVEMENT, OR  
23 RELATIONSHIP.—

24 “(A) IN GENERAL.—The Secretary shall  
25 ensure that each member of an administrative

1           investigative board or factfinder does not  
2           have—

3                   “(i) any personal interest or other  
4                   bias concerning the investigation being  
5                   conducted;

6                   “(ii) direct involvement in matters  
7                   being investigated; or

8                   “(iii) a supervisory or personal rela-  
9                   tionship with the subject of the investiga-  
10                  tion.

11                  “(B) RECUSAL.—If a potential member of  
12                  an administrative investigative board or  
13                  factfinder has a personal interest or other bias  
14                  concerning the investigation being conducted,  
15                  direct involvement in matters being inves-  
16                  tigated, or a supervisory or personal relation-  
17                  ship with the subject of the investigation, the  
18                  potential member shall inform the authority re-  
19                  sponsible for the investigation and recuse them-  
20                  selves from such matter.”.

21                  (b) CLERICAL AMENDMENT.—The table of sections  
22                  at the beginning of such subchapter is amended by insert-  
23                  ing after the item relating to section 7311A the following  
24                  new item:

                  “7311B. Elimination of conflicts of interest in peer review, administrative inves-  
                  tigation boards, and factfindings of Veterans Health Administra-  
                  tion.”.

1 **SEC. 3. LIMITATION ON DETAIL OF DIRECTORS OF MED-**  
2 **ICAL CENTERS OF DEPARTMENT OF VET-**  
3 **ERANS AFFAIRS TO DIFFERENT POSITIONS.**

4 (a) NOTIFICATION.—

5 (1) IN GENERAL.—Not later than 90 days after  
6 detailing a director of a medical center of the De-  
7 partment of Veterans Affairs to a different position  
8 within the Department, the Secretary of Veterans  
9 Affairs shall notify the Committee on Veterans' Af-  
10 fairs of the Senate and the Committee on Veterans'  
11 Affairs of the House of Representatives of such de-  
12 tail.

13 (2) MATTERS TO BE INCLUDED.—The notifica-  
14 tion required by paragraph (1) shall include, with re-  
15 spect to a director of a medical center who is de-  
16 tailed to a different position within the Department,  
17 the following information:

18 (A) The location at which the director is  
19 detailed.

20 (B) The position title of the detail.

21 (C) The estimated time the director is ex-  
22 pected to be absent from their duties at the  
23 medical center.

24 (D) Such other information as the Sec-  
25 retary may determine appropriate.

1 (b) APPOINTMENT OF ACTING DIRECTOR.—Not later  
2 than 120 days after detailing a director of a medical cen-  
3 ter of the Department to a different position within the  
4 Department, the Secretary shall appoint an individual as  
5 acting director of such medical center with all of the au-  
6 thority and responsibilities of the detailed director.

7 (c) UPDATE ON DETAIL.—Not later than 120 days  
8 after detailing a director of a medical center of the De-  
9 partment to a different position within the Department,  
10 and not less frequently than every 30 days thereafter while  
11 the detail is in effect or while the director position at the  
12 medical center is vacant, the Secretary shall submit to the  
13 Committee on Veterans' Affairs of the Senate and the  
14 Committee on Veterans' Affairs of the House of Rep-  
15 resentatives an update regarding the status of the detail.

16 (d) RETURN TO POSITION OR REASSIGNMENT.—

17 (1) IN GENERAL.—Except as provided in para-  
18 graph (2), not later than 180 days after detailing a  
19 director of a medical center of the Department to a  
20 different position within the Department, for a rea-  
21 son other than an ongoing investigation or adminis-  
22 trative action with respect to the director, the Sec-  
23 retary shall—

24 (A) return the individual to the position as  
25 director of the medical center; or

1           (B) reassign the individual from the posi-  
2           tion as director of the medical center and begin  
3           the process of hiring a new director for such po-  
4           sition.

5           (2) WAIVER.—

6           (A) IN GENERAL.—The Secretary may  
7           waive the requirement under paragraph (1)  
8           with respect to an individual for successive 90-  
9           day increments for a total period of not more  
10          than 540 days from the original date the indi-  
11          vidual was detailed away from their position as  
12          director of a medical center.

13          (B) NOTIFICATION.—Not later than 30  
14          days after exercising a waiver under subpara-  
15          graph (A), the Secretary shall notify Congress  
16          of the waiver and provide to Congress informa-  
17          tion as to why the waiver is necessary.

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