

[Rules #1—REVISED]  
**AMENDMENT TO H.R. 1540, AS REPORTED  
OFFERED BY MR. SESSIONS OF TEXAS**

Page 345, after line 8, insert the following:

**1 SEC. 731. PILOT PROGRAM ON PAYMENT FOR TREATMENT  
2 OF MEMBERS OF THE ARMED FORCES AND  
3 VETERANS FOR TRAUMATIC BRAIN INJURY  
4 AND POST-TRAUMATIC STRESS DISORDER.**

5 (a) PAYMENT PROCESS.—The Secretary of Defense  
6 and the Secretary of Veterans Affairs shall carry out a  
7 five-year pilot program under which each such Secretary  
8 shall establish a process through which each Secretary  
9 shall provide payment for treatments (including diagnostic  
10 testing) of traumatic brain injury or post-traumatic stress  
11 disorder received by members of the Armed Forces and  
12 veterans in health care facilities other than military treat-  
13 ment facilities or Department of Veterans Affairs medical  
14 facilities. Such process shall provide that payment be  
15 made directly to the health care facility furnishing the  
16 treatment.

17 (b) CONDITIONS FOR PAYMENT.—The approval by a  
18 Secretary for payment for a treatment pursuant to sub-  
19 section (a) shall be subject to the following conditions:

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- 1 (1) Any drug or device used in the treatment  
2 must be approved or cleared by the Food and Drug  
3 Administration for any purpose.
- 4 (2) The treatment must have been approved by  
5 an institutional review board operating in accordance  
6 with regulations issued by the Secretary of Health  
7 and Human Services.
- 8 (3) The treatment (including any patient disclo-  
9 sure requirements) must be used by the health care  
10 provider delivering the treatment.
- 11 (4) The patient receiving the treatment must  
12 demonstrate an improvement as a result of the  
13 treatment on one or more of the following:
  - 14 (A) Standardized independent pre-treat-  
15 ment and post-treatment neuropsychological  
16 testing.
  - 17 (B) Accepted survey instruments.
  - 18 (C) Neurological imaging.

19 (d) Clinical examination.

20 (5) The patient receiving the treatment must be  
21 receiving the treatment voluntarily.

22 (6) The patient receiving the treatment may not  
23 be a retired member of the uniformed services or of  
24 the Armed Forces who is entitled to benefits under  
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1 part A, or eligible to enroll under part B, of title  
2 XVIII of the Social Security Act.

3 (c) ADDITIONAL RESTRICTIONS PROHIBITED.—Ex-  
4 cept as provided in this subsection (b), no restriction or  
5 condition for reimbursement may be placed on any health  
6 care provider that is operating lawfully under the laws of  
7 the State in which the provider is located with respect to  
8 the receipt of payment under this section.

9 (d) PAYMENT DEADLINE.—The Secretary of Defense  
10 and the Secretary of Veterans Affairs shall make a pay-  
11 ment for a treatment pursuant to subsection (a) not later  
12 than 30 days after a member of the Armed Forces or vet-  
13 eran (or health care provider on behalf of such member  
14 or veteran) submits to the Secretary documentation re-  
15 garding the treatment. The Secretary of Defense and the  
16 Secretary of Veterans Affairs shall ensure that the docu-  
17 mentation required under this subsection may not be an  
18 undue burden on the member of the Armed Forces or vet-  
19 eran or on the health care provider.

20 (e) PAYMENT AUTHORITY.—

21 (1) DEPARTMENT OF DEFENSE.—The Sec-  
22 retary of Defense shall make payments under this  
23 section for treatments received by members of the  
24 Armed Forces using the authority in subsection  
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1 (c)(1) of section 1074 of title 10, United States  
2 Code.

3 (2) DEPARTMENT OF VETERANS AFFAIRS.—

4 The Secretary of Veterans Affairs shall make pay-  
5 ments under this section for treatments received by  
6 veterans using the authority in section 1728 of title  
7 38, United States Code.

8 (f) PAYMENT AMOUNT.—A payment under this sec-  
9 tion shall be made at the equivalent Centers for Medicare  
10 and Medicaid Services reimbursement rate in effect for ap-  
11 propriate treatment codes for the State or territory in

12 which the treatment is received. If no such rate is in effect,  
13 payment shall be made at a fair market rate, as deter-  
14 mined by the Secretary of Defense, in consultation with  
15 the Secretary of Health and Human Services, with respect  
16 to a patient who is a member of the Armed Forces or  
17 the Secretary of Veterans Affairs with respect to a patient  
18 who is a veteran.

19 (g) DATA COLLECTION AND AVAILABILITY.—

20 (1) IN GENERAL.—The Secretary of Defense  
21 and the Secretary of Veterans Affairs shall jointly  
22 develop and maintain a database containing data  
23 from each patient case involving the use of a treat-  
24 ment under this section. The Secretaries shall en-

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1 sure that the database preserves confidentiality and  
2 be made available only—

3 (A) for third-party payer examination;

4 (B) to the appropriate congressional com-

5 mittees and employees of the Department of

6 Defense, the Department of Veterans Affairs,

7 the Department of Health and Human Services,

8 and appropriate State agencies; and

9 (C) to the primary investigator of the insti-

10 tutional review board that approved the treat-

11 ment, in the case of data relating to a patient

12 case involving the use of such treatment.

13 (2) ENROLLMENT IN INSTITUTIONAL REVIEW

14 BOARD STUDY.—In the case of a patient enrolled in

15 a registered institutional review board study, results

16 may be publically distributable in accordance with

17 the regulations prescribed pursuant to the Health

18 Insurance Portability and Accountability Act of

19 1996 (Public Law 104–191) and other regulations

20 and practices in effect as of the date of the enact-

21 ment of this Act.

22 (3) QUALIFIED INSTITUTIONAL REVIEW

23 BOARDS.—The Secretary of Defense and the Sec-

24 retary of Veterans Affairs shall each ensure that the

25 Internet Web site of their respective departments in-

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1 cludes a list of all civilian institutional review board

2 studies that have received a payment under this sec-

3 tion.

4 (h) ASSIGNMENT FOR MEMBERS TO OBTAIN TREAT-  
5 MENT.—

6 (1) ASSIGNMENT TO TEMPORARY DUTY.—The

7 Secretary of a military department may assign a

8 member of the Armed Forces under the jurisdiction

9 of the Secretary to temporary duty or allow the

10 member a permissive temporary duty in order to

11 permit the member to receive treatment for trau-

12 matic brain injury or post-traumatic stress disorder,

13 for which payments shall be made under subsection

14 (a), at a location beyond reasonable commuting dis-

15 tance of the member's permanent duty station.

16 (2) PAYMENT OF PER DIEM.—A member who is

17 away from the member's permanent station may be

18 paid a per diem in lieu of subsistence in an amount

19 not more than the amount to which the member

20 would be entitled if the member were performing

21 travel in connection with a temporary duty assign-

22 ment.

23 (3) GIFT RULE WAIVER.—Notwithstanding any

24 rule of any department or agency with respect to

25 ethics or the receipt of gifts, any assistance provided

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1 to a member of the Armed Forces with a service

2 connected injury or disability for travel, meals, or

3 entertainment incidental to receiving treatment

4 under this section, or for the provision of such treat-

5 ment, shall not be subject to or covered by any such

6 rule.

7 (i) RETALIATION PROHIBITED.—No retaliation may

8 be made against any member of the Armed Forces or vet-

9 eran who receives treatment as part of registered institu-

10 tional review board study carried out by a civilian health

11 care practitioner.

12 (j) TREATMENT OF UNIVERSITY AND NATIONALLY

13 ACCREDITED INSTITUTIONAL REVIEW BOARDS.—For

14 purposes of this section, a university-affiliated or nation-

15 ally accredited institutional review board shall be treated

16 in the same manner as a Government institutional review

17 board.

18 (k) MEMORANDA OF UNDERSTANDING.—The Sec-

19 retary of Defense and the Secretary of Veterans Affairs

20 shall seek to expeditiously enter into memoranda of under-

21 standings with civilian institutional review boards de

22 scribed in subsection (j) for the purpose of providing for  
23 members of the Armed Forces and veterans to receive  
24 treatment carried out by civilian health care practitioners  
25 under a treatment approved by and under the oversight  
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1 of civilian institutional review boards that would qualify  
2 for payment under this section.

3 (I) OUTREACH REQUIRED.—

4 (1) OUTREACH TO VETERANS.—The Secretary  
5 of Veterans Affairs shall notify each veteran with a  
6 service-connected injury or disability of the oppor  
7 tunity to receive treatment pursuant to this section.

8 (2) OUTREACH TO MEMBERS OF THE ARMED

9 FORCES.—The Secretary of Defense shall notify  
10 each member of the Armed Forces with a service  
11 connected injury or disability of the opportunity to  
12 receive treatment pursuant to this section.

13 (m) REPORT TO CONGRESS.—Not later than 30 days  
14 after the last day of each fiscal year during which the Sec  
15 retary of Defense and the Secretary of Veterans Affairs  
16 are authorized to make payments under this section, the  
17 Secretaries shall jointly submit to Congress an annual re  
18 port on the implementation of this section. Such report  
19 shall include each of the following for that fiscal year:

20 (1) The number of individuals for whom the  
21 Secretary has provided payments under this section.  
22 (2) The condition for which each such indi  
23 vidual receives treatment for which payment is pro  
24 vided under this section and the success rate of each  
25 such treatment.

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1 (3) Treatment methods that are used by enti  
2 ties receiving payment provided under this section  
3 and the respective rate of success of each such meth  
4 od.

5 (4) The recommendations of the Secretaries  
6 with respect to the integration of treatment methods  
7 for which payment is provided under this section  
8 into facilities of the Department of Defense and De  
9 partment of Veterans Affairs.

10 (n) TERMINATION.—The authority to make a pay  
11 ment under this section shall terminate on the date that  
12 is five years after the date of the enactment of this Act.

13 (o) AUTHORIZATION OF APPROPRIATIONS.—There is  
14 authorized to be appropriated to carry out this section  
15 \$10,000,000 for each fiscal year during which the Sec  
16 retary of Veterans Affairs and the Secretary of Defense  
17 are authorized to make payments under this section.

18 (p) FUNDING INCREASE AND OFFSETTING REDUC  
19 TION.—

20 (1) IN GENERAL.—Notwithstanding the  
21 amounts set forth in the funding tables in division  
22 D, to carry out this section during fiscal year  
23 2012—

24 (A) the amount authorized to be appro  
25 priated in section 1406 for the Defense Health  
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1 Program, as specified in the corresponding  
2 funding table in division D, is hereby increased  
3 by \$10,000,000, with the amount of the in  
4 crease allocated to the Defense Health Pro  
5 gram, as set forth in the table under section  
6 4501, to carry out this section; and  
7 (B) the amount authorized to be appro  
8 priated in section 101 for other procurement,  
9 Army, as specified in the corresponding funding  
10 table in division D, is hereby reduced by  
11 \$10,000,000, with the amount of the reduction  
12 to be derived from Joint Tactical Radio System,  
13 ground-mobile radio program under Line 039  
14 Joint Tactical Radio System as set forth in the  
15 table under section 4101.

16 (2) MERIT-BASED OR COMPETITIVE DECI  
17 SIONS.—A decision to commit, obligate, or expend  
18 funds referred to in paragraph (1)(A) with or to a  
19 specific entity shall—

20 (A) be based on merit-based selection pro  
21 cedures in accordance with the requirements of  
22 sections 2304(k) and 2374 of title 10, United  
23 States Code, or on competitive procedures; and  
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1 (B) comply with other applicable provisions  
2 of law.