

MEMORANDUM

8 MARCH 2016

SUBJECT: The Oklahoma Veterans TBI Treatment and Recovery Act of 2014

1. Purpose. The purpose of this memorandum is to describe the Oklahoma Veterans Traumatic Brain Injury Treatment and Recovery Act of 2014 (OVTBITRA 2014) and to explain the legal basis for the Act.

2. Legislation. The OVTBITRA 2014 provides Oklahoma veterans with Traumatic Brain Injury (TBI) with Hyperbaric Oxygen Therapy (HBOT) paid for by the state insurance department from a special revolving fund administered by the Oklahoma Department of Veterans Affairs. The Act was passed unanimously by the Oklahoma legislature as SB1604 and signed into law on 6 May 2014. The Act is codified in Oklahoma Statutes in Title 63 Public Health and Safety, Section 1-291.

3. Status. As of 8 March 2016, the Act has not been implemented pending completion of the state regulation. The state regulation is expected to be completed in the third quarter of FY2016.

5. Execution. The Act and pending regulation assign responsibilities for carrying out the Act to the Oklahoma Department of Veterans Affairs (OKVD), the state Office of Management and Enterprise Services (OMES), the Oklahoma State University Center for Aerospace and Hyperbaric Medicine (OSU CAHM), the University of Oklahoma College of Public Health and the Cognitive Science Research Center (OU CPH/CSRC), and the National Guard. The Act works as follows:

- a. The Revolving Fund administered by OKVD is funded through public and/or private funds.
- b. A doctor (MD or DO) prescribes a state-approved treatment HBOT protocol for a veteran with a TBI. The state protocol is established by the OSU CAMH.
- c. The private or public treating HBOT facility applies to OMES for pre-approval of treatment.
- d. The HBOT facility treats the veteran in accordance with the state-approved HBOT protocol.
- e. Effectiveness of the treatment is measured by state-approved metrics administered before and after treatment. Measured improvement is verified and tracked by the OU CPH/CSRC.
- f. On receiving verification of improvement, OMES pays the treating facility and doctor for treatment and diagnostics at the state Medicare rate minus the states pro-rated administrative costs.
- g. OMES bills the US Department of Veterans Affairs, TRICARE, or another 3rd party payer for reimbursement of state funds spent to treat a veteran.
- h. Funds paid as reimbursement to the OMES are deposited in the Revolving Fund for another veteran.

6. Legal Basis. The Act is based on the legislative intent of the 1921 Veterans Bureau Act under which the Federal Government is liable for the medical costs incurred by a state in caring for veterans injured while in federal service. State Departments of Veterans Affairs and state-owned veteran homes are funded under this mechanism. The state of Nebraska successfully used this mechanism to obtain more than \$10 million in reimbursement from the federal VA for treatment the state provided to veterans at the University of Nebraska Medical Center. The viability of the Act will be decided by Oklahoma's ability to collect reimbursement for treatment provided to state veterans from the US VA and TRICARE.

7. Remarks. The Act only pays for treatment if the veteran meets a pre-specified level of improvement that is measured by validated metrics designated by the state. Over 400 veterans plus around 200 civilians with TBI have been treated to date under would will become the state protocol. The consistent success of the state's HBOT protocol in treating TBI as measured by the state's approved metrics indicates the pay-for-performance model will be economically sustainable by treatment clinics.

7. The point of contact for this memorandum is MAJ (retd) Ben Richards at r.ben.richards@gmail.com.