

NATIONAL ASSOCIATION OF VETERANS AFFAIRS PHYSICIANS AND DENTISTS

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STATEMENT FOR THE RECORD

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**NATIONAL ASSOCIATION OF VETERANS AFFAIRS PHYSICIANS AND
DENTISTS (NAVAPD)**

**BEFORE THE HOUSE VETERANS AFFAIRS SUBCOMMITTEES ON
ECONOMIC OPPORTUNITY AND HEALTH**

**CONCERNING DRAFT LEGISLATION ON IMPROVING VA'S
AUTHORITY TO HIRE AND RETAIN PHYSICIANS**

**WEDNESDAY, MARCH 16, 2016
2:00 P.M.**

Chairmen Benishek and Wenstrup, thank you for the opportunity to comment on your proposed legislation "To improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees of the Department of Veterans Affairs and for other purposes."

I am a practicing physician with more than 4 decades with the VA and the President of the National Association of Veteran Administration Physicians and Dentists usually referred to as NAVAPD.

I might add that I too am a veteran, having served for two years on active duty in the US Public Health Service.

The National Association of VA Physicians and Dentists (NAVAPD) is a 501(c)(6) nonprofit organization and is dedicated to improving the quality of patient care in the VA health care system and ensuring the doctor-patient relationship is maintained and strengthened.

NAVAPD believes that a key means of enhancing the care of the Veterans is by employing the best physicians and dentists. NAVAPD believes it is essential for health care providers to be involved in decisions regarding delivery and quality of care.

In the late 1960s and 1970s nearly all of the VA Medical Centers were led by Directors who were physicians and your draft legislation says Veterans Affairs Medical Center and Veterans Integrated Service Networks directors "may be appointed to suit the needs of the department, who, to the extent practicable, shall be a qualified doctor of medicine or a qualified dental surgeon or other qualified medical professional". I strongly support this provision and suggest you consider eliminating "who, to the extent practicable".

Currently, in the VA, the single greatest impediment to recruiting and retaining physicians and dentists is the disenfranchisement and marginalization that many of the current physicians and dentists experience daily. Today, most VA physicians and dentists feel like their opinions are neither helpful nor requested. In many facilities, their suggestions are summarily rebuffed as inconsequential. At many centers, physicians and dentists are no longer even considered professionals but referred to as simply the "workers". These observations do not just come from NAVAPD leadership, but directly from our members, VA docs and dentists. Men and women who want to help improve "the system."

The proposed revisions to legislation regarding physician work hours would at least theoretically permit VA medical center leaders to unilaterally and dramatically alter a physician's tour indefinitely, and without any stated reason. Specifically, the provision which states "The Secretary may modify the hours of employment for employees in a position specified in any of paragraphs (1) through (6) of section 7421(b) of this title to be more or less than 80 hours in a biweekly pay period if the total hours of employment for such an employee does not exceed 2,080 hours per calendar year." appears to make it possible for physicians to be told they must work every weekend, or move to night or evening shifts, or have frequently changing tours. While all physicians recognize that in a medical emergency they must do whatever they can to protect patients and treat immediate medical problems, any involuntary change in their negotiated tour should be motivated by a bona fide emergency that demands the attention of a physician. It stands to reason that these circumstances should have defined endpoints in time and clearly articulated goals, and should include a general staffing shortfall (where the services needed could be provided by non-physicians). The authority proposed by this revision should be qualified by these stipulations.

Recommend the legislation clarify the 24/7 rule's original intent that it go into effect only if a national or state emergency is declared by either a Governor or the President. Currently the 24/7 rule is used as a threat by hospital directors and it should not be used to intimidate the physicians and dentists. It also appears to be used as a no-cost method of solving staffing shortages or operational problems. This is an inappropriate abuse of privilege to solve the consequences of poor management.

The following are – apart from the important matter of momentary compensation – key factors that are widely reported as undercutting physicians' performance and satisfaction.

1. Denigration of CME. It is quite apparent that the VA has little regard for the continuing professional education of its physicians. Despite the fact that the Physician Pay Law of 2004 stipulates financial support of CME, it is regularly reported that the process for a physician to make use of the \$1000 allocated for CME is so cumbersome, untimely and burdensome that many simply forego the education itself or in some cases pay out of pocket. Furthermore, the allocation is paltry in relation to actual, current CME costs. The Physician Pay Law uses the language "up to \$1000" to indicate that the maximum funding is \$1000 instead of

the total cost of a much larger cost. Instead, hospital Directors have used this language to argue that they can provide any amount below \$1000. This is the opposite intent of the law, and further frustrates physicians.

One would think that the VA would see, as obvious, that the ultimate beneficiary of CME is the veteran-patient. Instead, the VA treats CME as an indulgence. The damage done is to the capability and morale of physicians as well as to patients. In, comparison with what the physician would have available in the private sector, it's hardly a recruiting tool; it is a disincentive to join or remain in the VA.

2. Ignoring the Federal Physician Pay Law/Ghost pay. The VA often acts as if there is no legal foundation of physician pay. There is. Physician Pay has three legally defined components: Base Pay, Market Pay, and Performance Pay.

In the Pay Law, performance pay is authorized up to \$15,000 per physician and appropriated for incentivizing physicians, but no one seems to know where it goes, and some do not even seem to know that it exists. Local Directors arbitrarily restrict performance pay to any level they wish. How? Funds are allotted to VISNs and then to facilities for performance pay, but only smaller amounts are dispersed. Where are the remaining funds?

Stipulated bi-annual market surveys and adjustments are skipped or ignored, market adjustments seem to go to "favored" staff members. Pay panels are assembled with pre-conceived performance pay outcomes. VA leaders at all levels (local, VISN, Central Office) need to be pressured to bring pay management into conformance with the Pay Law. The Pay Law is law, not a suggestion.

Upper echelon VA management seems to think that continuing obscurity is the best way to handle this issue. In fact, however, what gets perpetuated is distrust and the sense that superiors are specially helping themselves and their friends with these funds. Transparency and behavior that is CONSISTENT with the Physician Pay Law are sorely needed.

3. Disrespect Disparity. In a private sector organization, no one would expect a staff person to treat a physician as just another "worker" nor expect that a physician would be without remedy when support personnel regularly fail to perform at a satisfactory levels. At VA facilities, a supporting employee – tech, secretary, etc. – sees his or her supervisor as the individual to be pleased, not the physician involved in patient care. Reports of this phenomenon are legion.

This will not be remedied unless personnel come to see that properly supporting the physician is of paramount importance – and this will not occur unless there is a system whereby the physicians can anonymously rate personnel, including their supervisors. A department head should be held to explain why any such ratings within the department are low.

Relatedly, there are many reports by physicians complaining that their time is taken up by basic secretarial work – a problem that would be much alleviated by making support staff concretely responsible to physicians rather than living in a parallel merit system controlled by a reigning supervisor. The VA has systematically shifted physician-roles to non-physicians while simultaneously encumbering physicians with more non-physician duties, such as filing reports. This disrespect for physician skills and roles starts at the top and filters down to all layers of the organization.

4. The HR problem. HR has too wide a variety of responsibilities and some basic conflicts of interest – which cannot be remedied within HR.

A key responsibility is to locate and intake needed personnel, particularly physicians. It is generally reported that the process is so slow and cumbersome that good recruits are routinely lost to other jobs. The draft bill proposes to offer education to HR personnel, but it does nothing to eliminate or streamline the requirements of the recruiting process that are the heart of the problem. The bill also needs to add accountability to the education. Lots of money is spent by the VA on educating HR personnel, but performance has not improved. This must change if VA is to turn its image around.

Another key responsibility is to process and resolve employee (including physician) complaints about their working conditions or treatment by co-workers or superiors, but HR is hopelessly conflicted. HR works for management, not the employees. It naturally sees its function as one of employee pacification, not employee support and assistance. Given the numerous employee-biased programs within the government, HR fears retaliation for assertive corrective action and thus is reluctant to challenge problematic employees.

Although the VA regularly issues declarations purporting to support employees' rights to challenge possible wrongdoing and inefficiencies, such declarations are toothless and largely ignored. There is a need to create a separate system – an ombudsman system, similar to the IG system where the ultimate authority lies

outside the department – to process such employee grievances. There really is no other solution. Furthermore, this would free up HR to concentrate on other important functions, including recruiting.

5. Shedding Stupid Rules. There are numerous physician complaints about time being misused by VA requirements for TMS testing – essentially unrelated to their duties of patient care. There are also rules that obstructively interfere with the flexible management of physician time. For example, if a physician needs to make an arrangement to be away for several hours in an afternoon to take care of a non-VA problem he or she must take off the entire day as personal time – a rule that serves little purpose but to irritate. If the VA has a serious interest in retaining physicians by creating a benign working atmosphere, someone should be put in charge of weeding out noxious over-regulation.

NAVAPD supports:

- modification to annual determination of staffing shortages;
- reemployment of former employees;
- recruiting database;
- Comptroller General study on succession planning VA-wide (although don't know why you don't ask GAO to do it now rather than wait for enactment)
- promotional opportunities for technical experts;
- information on hiring effectiveness; and
- exit surveys.

While NAVAPD is largely focused on physician and dentist related issues, we cannot ignore issues that impact recruitment and retention of other critical professionals in the VA facilities. VA's ability to fully serve Veterans is also predicated upon sufficient levels of these personnel. Nursing is represented by its own unions and organizations, but other key professionals are not, and they are also critical to effective patient care. Many do not receive appropriate consideration of attractive pay and benefits to assure their recruitment and retention. We believe that arbitrary segmentation is counter to the need to attract and keep skilled staff. We believe that the Hybrid designation for many professionals (such as Respiratory Therapists) should be eliminated and these professions should be made full Title 38 employees with the obligations and benefits of that designation.

We applaud the intent of the Human Resources Academy but would recommend a review of the responsibilities of HR professionals and what could be consolidated/centralized so valuable time could be spent on recruitment/retention. The Department of Commerce is implementing a "shared service for HR processing department-wide" and leaving policy, professional training, hiring decision-making at operational unit level. NASA has a similar operational model.

Many of your provisions could be undertaken administratively by Veterans Affairs management if they had the political will. I am also including my recent statement before the Congressionally mandated Commission on Care in January.

Thank you again for inviting NAVAPD to provide our comments regarding your important draft legislation.