



National Service & Legislative Headquarters
807 Maine Avenue, S.W.
Washington, D.C. 20024-2410
Phone (202) 554-3501
Fax (202) 554-3581
www.dav.org

***STATEMENT OF
ADRIAN M. ATIZADO
DAV DEPUTY NATIONAL LEGISLATIVE DIRECTOR
SUBMITTED FOR THE RECORD TO THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEES ON HEALTH AND ECONOMIC OPPORTUNITY
UNITED STATES HOUSE OF REPRESENTATIVES
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Mr. Chairman and Members of the Subcommittees:

Thank you for inviting DAV (Disabled American Veterans) to submit testimony for the record to discuss our views on draft legislation aimed at improving the authority of the Secretary of Veterans Affairs (VA) to hire and retain physicians and other VA employees. As you know, DAV is a non-profit veterans service organization comprised of nearly 1.3 million wartime service-disabled veterans and is dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity.

According to VA, between FY 2013 and FY 2019, nearly 41 percent of the Veterans Health Administration (VHA) workforce will become eligible for regular retirement, with over 23 percent projected to actually retire. Among senior leaders, the rates of retirement eligibility are staggering, with more than 75 percent of the Senior Executive Service (SES), Title 38 executives, chiefs of staff, and nurse executives, and about half of Associate, Assistant, and Deputy Network Directors eligible for retirement within the next 7 years.¹ This scenario highlights the need for this hearing and we applaud the work of both Subcommittees' to improve the VA Secretary's authority to recruit and retain VA physicians and other employees.

Section 2 of this draft bill seeks to address the lack of specific authority to make appointments or set rates of pay under title 38 for VA Medical Center Director and Network Directors.

It appears that pay for these directors would be based on the methodology of a compensation system similar to that which is used for VHA physicians and dentists (38 U.S.C. § 7431) P.L. 108-445. Notably, changes to the VHA physicians and dentists compensation system is proposed in Section 6 of this bill. We draw the Subcommittees' attention to our comments and concerns on Section 6 as it applies to Section 2 of this measure.

¹ 85.5 percent of SES; 91.2 percent of Title 38 SES; 85.9 percent of Chiefs of Staff; 77.6 percent of Nurse Grade V; 48.3 percent of Associate, Assistant, and Deputy Directors.

Section 3 would align VA practice with the private sector, facilitating the recruitment and retention of emergency physicians and the recruitment, retention and operation of a hospitalist physician system in VA medical centers.

To accommodate the need for continuity of efficient hospital care, emergency medicine (EM) physicians often work irregular schedules. This measure would modify the hours of employment for a full-time physician or physician assistant to more or less than 80 hours in a biweekly pay period provided the employee's total hours of employment in a calendar year would not exceed 2,080. Consequently, VA medical centers would gain the ability to implement flexible physician and physician assistant work schedules that could accommodate hospitalist and EM physicians' schedules and practices.

DAV does not have a resolution calling for this specific legislation; however, because of the measure's beneficial nature, we would not oppose its favorable consideration.

As part of the "Yellow Ribbon G.I. Education Enhancement Program," **Section 4** of the bill would require the VA Secretary to carry out a program in partnership with an institution of higher education (IHE) and agree to cover the full cost not covered by the post-9/11 G. I. Bill incurred by veterans who are pursuing advanced degrees in the mental health field at the IHE and intend to seek employment as mental health professionals in VA.

DAV Resolution No. 122 calls on Congress and VA to establish scholarships for future VA mental health practitioners. We are pleased to support this important provision which seeks to make program improvements related to suicide prevention and would improve access to appropriate mental health services for service members and veterans who need such services.

Section 5, would add to the five clinical occupations an additional five nonclinical occupations for which the Office of Inspector General (OIG) must annually determine are the largest staffing shortages throughout the Department as calculated over the five-year period preceding the determination.

We urge the Subcommittee include in this context of determining capacity of the VA health care system other directly related factors such as space shortages and requirements to meet the goals of the Secretary for timely access to care for veterans.

Section 6 would eliminate the compensation panel recommendation process required under 38 U.S.C. § 7431(c)(4)(B) to determine market pay for physicians and dentists. We understand that VA believes the current compensation panel process is time consuming and yields no additional value to other reviews conducted prior to the appointment.

We understand the ability for the Secretary to exercise flexibilities in pay is a vital recruitment and retention tool. The Secretary today has discretion over two components of compensation for VA physicians and dentists under the title 38 pay system - market pay and performance pay. Market pay combined with basic pay (which set by law) is meant to reflect the recruitment and retention needs for the specialty of assignment of the particular physician or dentist in a VA facility. Performance pay, which the Secretary also has discretion over, is a

statutorily authorized element of annual pay paid to physicians and dentists for meeting goals and performance objectives. Furthermore, Congress has granted VA other pay flexibilities involving discretion, including premium pay, on-call pay, alternate work schedules, Baylor Plan, special salary rates, and recruitment and retention bonuses.

It appears that market pay is the only part of VA compensation that is determined through a peer-review process composed of a group of physicians and/or dentists and based on factors such as the prospects experience, qualifications, complexity of the position and difficulty recruiting for the position. There is risk eroding the effectiveness of market pay by eliminating this role without assurances that the local peer-perspective, which ensures consistency and appropriateness of pay proposals, will continue to be an important part of the approving official's final decision.

Section 7 would establish a one-year fellowship program to provide private sector claims processing training and experience for certain Veterans Benefits Administration (VBA) and VHA executives. The private sector entity would be engaged in the administration and delivery of health care or other services similar to the benefits administered by the Secretary.

We note that the eligible employer under this section of the bill would be both VBA and VHA. However, the agreement under the proposed new Section 721(e) between VA and the fellow is incongruous, which appears to afford the opportunity for employment only in VBA and not VHA, which we urge the Subcommittee to correct.

Section 8 proposes a new requirement for the Secretary to conduct an annual performance plan for political appointees within the Department similar to the annual performance plan conducted for a career VA Senior Executive Service appointee.

Delegates to our most recent National Convention approved Resolution No. 214, calling for the imposition of meaningful employee accountability measures in VA, but with due process for employees targeted for such sanctions. This section meets the intent of DAV's resolution; therefore, DAV supports enactment.

Section 9 would modify veterans' preference in hiring for employment in the federal government by including in the active duty service requirement those veterans who have performed 180 days of cumulative service and all military retired. The application of such preference would also extend to the hiring of senior executive positions in the VA.

DAV supports this provision based on Resolution No. 130, calling, for among other things, a broader utilization of veterans and service-disabled veterans hiring preferences and supporting federal, state and local veterans' preference laws.

Section 10 would allow the Secretary to noncompetitively appoint a qualified former employee to any position within the competitive or excepted service positions that is one grade higher than the grade of the position at the Department most recently occupied by the employee. A former employee may not be appointed to a position that is more than one grade (or equivalent) higher than the position at the Department most recently occupied. The term

“qualified former employee” means any individual who formerly occupied any VA position within 2 years before applying for re-employment at the Department; voluntarily left such position, or was subject to a reduction in force, and had a satisfactory performance record while occupying such position; and since leaving such position has maintained relevant licensing requirements, if any, and gained skill, knowledge, or other factors related to the position.

Section 11 would authorize the establishment of a single database that lists each vacant position in the VA that the Secretary determines is critical to the mission of the Department, difficult to fill, or both. If an applicant for a vacant position listed in the database is qualified but is not selected for the position, the Secretary, at the election of the applicant, shall consider the applicant for other similar vacant positions listed in the database for which the applicant is qualified.

Section 12 would require VA human resources professionals training on how to best recruit and retain Title 38 employees, including any recruitment and retention matters that are unique to the VHA. The training would be provided in a manner deemed appropriate in light of budget, travel, and other constraints. The Secretary shall ensure that each VHA human resources professional receives the training as soon as practical after being hired as a human resource professional; and annually thereafter.

Section 13 would require VA to establish a promotional track system for VA employees determined to be technical experts within one year of it being enacted. The developed promotional track would provide qualifying employees the opportunity to advance within VA without being required to transition to a management position; it would provide for the establishment of new positions within VA; and notwithstanding any other provision of law, would provide for increases in pay.

DAV does not have a resolution calling for the provisions in sections 10 through 13.

Section 14 would require the Government Accountability Office to conduct a study on the succession planning at each VA medical facility, the VBA, and the National Cemetery Administration. For each entity, the study must include: A determination of the mission-critical positions and the vacancy risk of such positions; An analysis of the future needs for mission critical positions and gaps within the existing talent pool of the entity; A description of strategies to close skill gaps through the use of training for existing staff, targeted recruitment, and hiring; A plan to regularly evaluate progress of staff and update existing succession plans using clear and measurable metrics and benchmarks; A demonstration of the capacity to execute succession plans with successful succession management strategies, and; Any other matters the Comptroller General determines appropriate.

The Comptroller General shall submit a report detailing each study conducted to the House and Senate Committees on Veterans’ Affairs no later than one year after enactment.

We thank the Subcommittees attention to address one of VA’s most significant challenges is dealing effectively with succession an succession planning—especially in the health sciences and technical fields that so characterize contemporary American medicine and

healthcare delivery.

Section 15 would require the VA to measure and collect detailed information on indicators of hiring effectiveness including satisfaction of employment applicants and new hires. Personally identifiable information of applicants and employees will be kept private. The Secretary will submit a report of information collected to the House and Senate Committees on Veterans' Affairs, and will annually make the information collected publicly available in a consistent and machine-readable format to allow for a comparison of hiring effectiveness and experience by VISN or comparable public or private sector organization.

DAV has been calling attention to VA's human resources policies, which in recent hearings on VA mental health in the Senate, confirm that the lack of responsiveness of human resources offices and management policies are contributing to deficits in VA's mental health programs. Sadly, unresponsive human resources practices are also affecting all of VA's key missions. While we believe the collection of this information may be useful, we urge the Subcommittee to carefully examine VA and Office of Personnel Management appointment authorities in statute and how they are being applied within VA to determine whether additional legislation would offer any helpful resolution. VA should develop and track measures of performance in human resources recruitment, on-boarding and retention of clinical staff. Almost as important, the Committee should provide targeted oversight in examining why VA human resources programs are so weak and unaccountable at a time when they should be acting forcefully and supportively to ensure VA programs in VHA, VBA and Memorial Affairs are properly staffed to meet their missions. With help from Congress, we believe this aspect of VA's challenges can be solved with better leadership and more responsiveness, beginning at the local level and extending throughout the system.

Section 16 VA would allow for excepted service appointments of students and recent graduates leading to conversion to career or career conditional employment of a student or recent graduate of a qualifying educational institution. The conversion authority shall be applicable to individuals in good standing who are employed in a qualifying internship or fellowship program at the Department; are employed in the Department in a volunteer capacity and performing substantive duties comparable to those of individuals in internship or fellowship programs and meet the required number of hours for conversion; or who are employed in the Department under a contract or agreement with an external non-profit organization and performing substantive duties comparable to those of individuals in internship or fellowship programs.

DAV has no resolution on this specific provision; however, we continue to hear from VA medical facility leaders on too many lost opportunities due to the lengthy hiring process for medical students who train in VA. As these medical professionals train in VA, they gain institutional knowledge, which becomes a tremendous advantage in successful transition. Thus, we would not oppose the favorable consideration of this section in this regard.

Section 17 would require VA develop and carry out a standardized, anonymous, and voluntary exit survey to be completed by career and non-career employees and executives of the Department who voluntarily leave. Data collected will be anonymized and personally identifiable information will be removed, and the results of the survey would be shared annually

with directors and managers of VA facilities and the VISN. Within one year after the date of the enactment, and annually thereafter, the Secretary will submit a report containing the aggregate results of the exit survey to the House and Senate Committees on Veterans' Affairs.

DAV does not have a resolution calling for this section of the bill.

Mr. Chairman and Members of the Subcommittees, this concludes DAV's testimony. We appreciate the invitation to submit testimony for the record, and are prepared to respond to any questions on the positions we have taken with respect to the bill under consideration.