**STATEMENT FOR THE RECORD OF
THE AMERICAN LEGION
FOR A JOINT HEARING
OF THE
SUBCOMMITTEES ON
OVERSIGHT AND INVESTIGATIONS
AND
HEALTH
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
EVALUATING VA INFORMATION TECHNOLOGY**

APRIL 14, 2016

It is no simple task to reform the Information Technology (IT) enterprise of an organization the size of the Department of Veterans Affairs (VA). Compounding this challenge is the need to mesh reform with the larger goal of a national system in which health data flows seamlessly and securely, not only between Federal agencies, but between public and private health care systems too.

Chairmen Coffman and Benishek, Ranking Members McLane-Kuster and Brownley and distinguished members of the Subcommittees on Oversight And Investigations and Health, on behalf of National Commander Dale Barnett and The American Legion; the country's largest patriotic wartime service organization for veterans, comprising over 2 million members and serving every man and woman who has worn the uniform for this country; we welcome this opportunity to comment on "Evaluating VA Information Technology."

When a patient moves from one health system to another, there's no guarantee his or her electronic medical records are compatible with the new systems. This is an issue the nation is struggling with, both in the private and public sectors. Much attention has been given to the issue of examining the Departments of Defense (DOD) and Veterans Affairs information technology with an emphasis on the departments' efforts to develop and implement an interoperable electronic health record (EHR).

The 2008 National Defense Authorization Act (NDAA) directed DOD and VA to jointly develop and implement a "fully interoperable" EHR, creating an Interagency Program Office to facilitate and coordinate the Departments' efforts. In July 2015, DOD awarded a $4.3 billion contract to upgrade the Armed Forces Health Longitudinal Technology Application, while the VA continues to modernize and evolve its open-source platform, the Veterans Health Information Systems and Technology Architecture (VISTA). However, problems exist for the EHR platform. The EHR program has been listed on the GAO's high risk list for 2015. Additionally, recent inspectors general audits of both departments' Federal Information Security Management Act compliance identified weaknesses and deficiencies in cybersecurity.

Just last month, The American Legion submitted written testimony to the House Subcommittee On Information Technology, Committee On Oversight And Government Reform on "VA Cybersecurity And IT Oversight."[1] The hearing examined VA's implementation of the Federal Information Security Management Act and Federal Information Technology Acquisition Reform Act (FITARA), as well as specific IT investments, including the modernization of the VISTA system.[2]

VA is currently engaged in an effort to modernize VISTA. The centerpiece of VA's modernization program, referred to as VISTA Evolution, is an electronic health record (EHR) that should be interoperable with the Department of Defense, as well as private sector health care providers. The VA received an overall grade of 'C' on the Committee's 2015 FITARA Implementation Scorecard, with F's on both Data Center Consolidation and IT Portfolio Review Savings. Additionally, the VA Office of Inspector General has found repeat "material weaknesses" in the VA's cybersecurity posture.

In March of 2013, over a year before the scheduling wait time scandal in Phoenix, Arizona would open a wider window of scrutiny onto the entire VA healthcare system, The American Legion was raising concerns about problems with VA's scheduling software. In a hearing before this committee's Oversight and Investigation (O&I) Subcommittee, The American Legion sounded the alarm that contrary to reported numbers, veterans were waiting far longer for care and "figures are being manipulated by employees to look better, statistics such as VA's reported 94 percent of primary care appointments within the proper period, mean very little."[3]

A year after our testimony, VA found itself embroiled in the center of a nationwide scandal as concerns that advocates such as The American Legion had raised in the past became a staple of nightly news reports. At the heart of this scandal was the accusation that, exactly as The American Legion had predicted a year previous, figures were being manipulated to hide wait times through the use of offline, paper lists that avoided the public record of the computer scheduling software and its automatic tracking of wait times.

VA would see massive leadership change over the summer of 2014, but would still struggle with an IT plan to fix the problems.

In 2013 The American Legion noted a large portion of the problem was that previous attempts to replace the software had wasted money to no result and that there was not plan in place at the time to fix the problems. The American Legion stated:

> *As we are now a decade into the 21st Century, The American Legion believes that VA should also begin implementing 21st Century solutions to its problems. In 1998, GAO released a report that highlighted the excessive wait times experienced by veterans trying to schedule appointments, and recommended that VA replace its VistA scheduling system.[4] To address the scheduling problem, the*

[1] http://www.legion.org/legislative/testimony/231677/va-cybersecurity-and-it-oversight
[2] https://oversight.house.gov/hearing/va-cybersecurity-and-it-oversight/
[3] Testimony of Roscoe Butler, *Waiting for Care: Examining Patient Wait Times at VA* March 14, 2013
[4] U.S. Medicine Magazine, *VA Leadership Lacks Confidence in New $145M Patient Scheduling System*, May 2009

> *Veteran's Health Administration (VHA) solicited internal proposals from within VA to study and replace the VistA Scheduling System, with a Commercial Off-the-Shelf (COTS) software program. VA selected a system, and about 14 months into the project they significantly changed the scope of the project from a COTS solution to an in-house build of a scheduling application. After that, VHA ended up determining that it would not be able to implement <u>any</u> of the planned system's capabilities, and after spending an estimated $127 million over 9 years, The American Legion learned that VHA ended the entire Scheduling Replacement Project in September 2009.[5] We believe that this haphazard approach of fits and starts is crippling any hope of progress. It has now been over three years since VHA cancelled the Replacement Scheduling Application project, and as of today, The American Legion understands that there is still no workable solution to fixing VA's outdated and inefficient scheduling system.*

In the summer of 2014 VA announced plans to replace the software, going back to the original idea of Commercial Off the Shelf (COTS) software to accomplish that end. However, by September reports out of VA estimated the COTS plan would not roll out until 2020, over half a decade down the road.[6] VA would ultimately backtrack from this and revise that estimate down to 2017; however the move did little to ensure confidence in the ability to rectify the very real problems that the Phoenix scandal had highlighted.

Recent leadership changes, including the addition of Dr. David Shulkin as the Undersecretary for Health and LaVerne Council as VA's Assistant Secretary for Information and Technology and Chief Information Officer, have been promising moves and The American Legion has generally been impressed with the leadership team as they have worked to move forward on this issue.

While briefing VSOs on plans for future integration upgrades, VA shared ideas about a plan to move to an online scheduling system where veterans could schedule their own appointments. Because our Four Pillars include veterans issues as well as issues related to a strong national defense, The American Legion is well versed in both VA healthcare as well as TRICARE and military healthcare and was able to point out the many problems that arose when TRICARE implemented a similar scheduling system online.

Without scheduling personnel to oversee the process, and manage appointments, doctors' calendars rapidly overfill, clogging the system and making it impossible for patients to find time on the schedule. With a scheduling specialist available to determine what the type of appointments are and whether there can be multiple patients scheduled during certain time periods, the system is reduced to inelegant, brute force blocks of time, with little regard to whether doctors and support staff could handle different volumes of patients. This is just one example of how a strong and transparent partnership between VA and VSO stakeholders improves services to veterans.

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[5] GAO-10-579, *Management Improvements Are Essential to VA's Second Effort to Replace Its Outpatient Scheduling System*, May, 2010

[6] No New VA Patient Schedule System Until 2020 – Bob Brewin, NEXTGOV September 26, 2014

We are hopeful that the dialogue with The American Legion and other groups will help guide VA moving forward with plans to reform the scheduling software. There were serious problems with the way VA had gone about business scheduling appointments for veterans. Under the old system, while veterans were left out on secret lists, few alarm bells were raised inside the system because employees had developed pencil and paper workarounds to the computer solutions VA had implemented. It took the combined pressure of groups like The American Legion and brave whistleblowers within VA who cared deeply about the safety of veterans to step forward and identify the problem.

We are now at a stage where VA is engaging with the very people whose membership utilize VA facilities across the country on a daily basis and are best in a position to identify problem areas. Hopefully VA is listening to these critical stakeholders.

New Veterans Choice Program

VA's current community care programs still utilize labor-intensive business processes that are too reliant upon manual data input, prone to errors and processing delays. The current system is a decentralized and highly manual process.[7] The New VCP plan proposes integrating most of VA's community care programs into one single program that would be seamless, transparent, and beneficial to enrolled veterans. The New VCP envisions a three-phased approach to implement these changes to support improved health care delivery for enrolled veterans.

The first phase will focus on the development of minimum viable systems and processes that can meet critical veteran needs without major changes to supporting technology or organizations. Phase II will consist of implementing interfaced systems and community care process changes. Finally, Phase III will include the deployment of integrated systems, maintenance and enhancement of the high-performing network, data-driven processes, and quality improvements.

To improve the accuracy of claims and reimbursement processing, the 2015 Independent Assessment Report recommended that VA employ industry standard automated solutions to bill claims for VA medical care (revenue) and pay claims for Non-VA Health Care (payment).[8] VA states its New VCP will focus on operational efficiencies, to include standardized billing and reimbursement, as well as geographically adjusted fee schedules that are tied to Medicare, as deemed appropriate. These foci will make it easier and more appealing for community health care providers to partner with VA.

The American Legion supports VA developing a 21st Century claims and reimbursement processing system that is rules-based, and to the extent possible, eliminates as much human intervention as possible. The system must eliminate the guess work out of the claims and reimbursement process and establish an error-free claims process that is responsive to veteran's needs.

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[2] Plan to Consolidate Programs of Department of Veterans Affairs to Improve Access to Care - Oct 2015

[3] VA Independent Assessment - Sept.2015

Therefore, we are pleased to see that VA proposes to implement a claims solution which is able to auto-adjudicate a high percentage of claims, enabling VA to pay community health care providers promptly and correctly and to move to a standardized regional fee schedule, to the extent practicable for consistency in reimbursement.

Additionally VA proposes to simplify eligibility criteria so veterans can easily determine their options for community care, streamline the referral and authorization process to enable more timely access to community care, and standardize business processes to minimize administrative burden for community providers and VA staff. Improvements in how VA processes claims will enable VA to reimburse community providers in a timely and efficient fashion.

The American Legion understands VA's New VCP is a huge undertaking and understands the plan will take time to fully implement, particularly the IT component required to auto-adjudicate a high percentage of claims. However, we do not believe Congress should continue to provide VA an open check book without any assurance from VA that their IT plan will work. Congress must require VA to not only provide an IT plan, but provide some proof that the claim and reimbursement system will work. Too often Congress has authorized funding in support of process improvement initiatives like CoreFLS, and VA's scheduling system, to name a few, without any deliverables, resulting in wasted tax payer dollars that can never be recovered. In these situations, the ones who are impacted are our nation's veterans who are calling out to Congress to fix the system.

An immediate remedy would be for VA to authorize payment for any Non-VA claim immediately upon receipt of a valid bill for health care services that a veteran receives. So, we were pleased to hear the recent VA announcement that the TPA's are now authorized to begin paying any Non-VA health care claim under the VCP without first obtaining the veterans medical record from the Non-VA health care provider. The American Legion applauds VA for initiating this action. This will prevent stories like the November 2015 Miami Herald article about Florida hospitals trying to get the Department of Veterans Affairs to pay about $134.4 million in outstanding claims for medical services they provided to veterans.[9] If it is determined VA overpaid for the care and services, cost recovery should occur after VA has verified the care and services provided to veterans receiving that health care. Of course, ensuring that records are ultimately returned to VA is very important and we look forward to hearing more about how VA plans to achieve this.

Finally, VA's IT systems need to be much more interoperable with the private sector, and veterans should be able to access their records from any setting. The overarching goal should be for the VA to use technology and health information to improve the health and well-being of veterans in ways that makes the information accessible when and where it matters most.

VA needs to develop a coordinated IT infrastructure for appointment scheduling, coding, billing, claims payment and other core VHA business processes, which include the automation of claims payment. This is essential to expanding veteran care with community providers. Billing and payment systems must be efficient.

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[9] Florida Hospitals: *VA owes $134 million in unpaid claims*: Miami Herald; November 17, 2015

The entire American healthcare economy is struggling to figure out ways to develop interoperable electronic healthcare records. If this nation is to have truly 21st century healthcare, this concept in both the public and private sector is essential. VA can take the lead in this field, as they have in so many fields of healthcare in providing true innovation. VA healthcare pioneered electronic healthcare records with VISTA. VA healthcare pioneered improvements in modern heart surgery, in the treatment of Posttraumatic Stress Disorder, and integrated care. There should be no reason they should not be trailblazers in this arena if properly supported.

Conclusion

The American Legion is deeply committed to working with VA to ensure that not only are these IT challenges worked out, but that any and all challenges are resolved to help protect the healthcare system designed specifically to service the unique needs and challenges of the veterans' population. Consistently, veterans speak highly of the high quality of care they receive when they can see their VA providers, and note how well VA understands their unique sacrifices and military culture when they are treating them. Therefore it is doubly important that we solve these challenges and make it easier for veterans to access the system best suited to treat them.

The American Legion thanks this committee for the opportunity to explain the position of the over 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Warren J. Goldstein at The American Legion's Legislative Division at (202) 861-2700 or wgoldstein@legion.org