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**Testimony of Irma Westmoreland, RN
On Behalf of National Nurses United**

Before the

**Subcommittee on Oversight and Investigations
House Committee on Veterans Affairs
Hearing on “Pending Legislation”**

April 21, 2021

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Thank you, Chairman Pappas, Ranking Member Mann, and members of the committee, for giving me the opportunity to submit testimony for this hearing.

My name is Irma Westmoreland. I am a registered nurse at the Charlie Norwood VA Medical Center in Augusta, Georgia. I am Vice President of National Nurses United (NNU), the largest union and professional association of registered nurses in the United States.

We represent more than 170,000 nurses across the country, including more than 12,000 nurses at 23 VA hospitals. I serve as the Veterans Affairs Chair of NNU. Over the past year, our nurses, many of whom are veterans themselves, have been on the frontlines of the coronavirus response at the hospital bedside. To be clear, my testimony today is on behalf of NNU and in no way on behalf of the Veterans Administration management.

National Nurses United strongly supports H.R. 1948, the VA Employee Fairness Act of 2021, sponsored by Chairman Takano. This bill would repeal Section 7422 of Title 38 of the U.S. Code, thereby granting full collective bargaining rights to registered nurses and other clinicians in the VA. In this testimony, I will explain why Section 7422 of Title 38 of the U.S. Code must be repealed by detailing why the current situation is unacceptable, why full collective bargaining rights for nurses are essential for patient care, and how the VA Employee Fairness Act (H.R. 1948) would help solve the problems we are seeing in VHA hospitals.

The Current Situation

Registered nurses and select other clinical professionals working in the VA do not currently have the same collective bargaining rights of other VA workers, or of clinicians in other workplaces or agencies, including the Department of Defense. My testimony will focus solely on the effects of Section 7422 on nurses.

Added in 1991 to Title 38 of the U.S. Code, Section 7422 allows only certain VA professionals to bargain collectively on all issues — giving them the ability to negotiate, file grievances, and arbitrate disputes over working conditions. The statute contains broad restrictions to collective-bargaining rights for RNs over matters concerning professional conduct or

competence (including direct patient care and clinical competence), peer review, and compensation.

The ability to collectively bargain over issues that matter to us should be a right for nurses everywhere, and yet the VA has consistently denied that ability to an entire group of workers simply due to their classification status. As a predominantly female workforce, nurses are discriminated against when we are denied our right to bargain collectively over issues such as patient care, and we know that restrictions on collective bargaining have a negative impact on the care veterans receive. Nurses are integral to the frontline of the VA health care system and have a duty and a right to advocate for their patients.

Patient advocacy often requires speaking up to management about issues in the hospital that affect patient care. Part of why Section 7422 has been so damaging to the VA nurse workforce is because management consistently uses the statute to reject contracts and refuse to engage with nurses on issues that we are seeing every day in our hospitals – issues that affect us but also affect the patients we care for. Without full collective-bargaining rights, management can leave VA nurses without resolutions to disputes over workplace issues that endanger patient safety, such as unsafe staffing, insufficient supplies, or assignment of a nurse to a unit without adequate training.

The negative impact of Section 7422 has been especially damaging during the Covid-19 pandemic, as the inability of VA nurses to bargain collectively has contributed to unsafe working conditions, including suboptimal personal protective equipment (PPE), unsafe staffing levels, and a lack of accessible testing. For example, nurses who are forced to wear the same single-use N95 for an entire 12-hour shift increases the risk of spreading of Covid-19 not only between nurses but also between patients. Nurses with full collective bargaining rights in the private sector have been able to win increased Covid protections including better PPE, more testing, and improved communication regarding Covid protocols. These protections help keep nurses, their patients, and our communities safe.

Full Collective Bargaining Rights and Their Impact on Patient Care

It is a fact that nurses' inability to collectively bargain over all workplace issues adversely affects patient care. One example comes from the Edward Hines Jr. VA Hospital in Hines, Illinois, where NNU recently filed a grievance over hiring discrimination and violations of the seniority rights of internal job bidders. The Hines administration refuses to address these problems because of Section 7422.

Like many VA hospitals, the Hines VA was looking to hire in both the Emergency Department and Post Anesthesia Care Unit (PACU). In the Emergency Department there were seven open positions, and nine qualified, internal applicants applied. Six of the seven positions were instead awarded to less qualified, external candidates. All but one of the selected candidates was white, as opposed to the eight out of nine internal candidates who are people of color. When the union filed a grievance, management responded that they did not need to address the issue, citing Section 7422.

Discriminatory practices such as these contribute to nurses feeling devalued and often cause them to leave the bedside, directly impacting patient care. Each nurse vacancy strains the

system of care in the VA and adversely affects patients. Both nurse recruitment and retention could be improved if nurses had full collective bargaining rights, and the if the hiring process, timeline, and pay scale were clearly detailed in a bargaining agreement visible to all nurses. Expanding collective bargaining rights for nurses is one way to accelerate the hiring process at the VA.

The Hines VA management is not alone in its belief that Section 7422 provides it with an incredibly broad scope to reject all discussions about issues that affect nurses and patients. Last year at the VA Eastern Colorado Healthcare System in Aurora, Colorado, management changed the nursing schedules for every inpatient nurse and used Section 7422 as the reason why it would not discuss the change at the bargaining table with nurses. Part of this change involved aligning all inpatient units to the same start times, creating a gap in time when all RNs are making their rounds and unable to provide patient care, often for periods in excess of one hour.

In a survey conducted by NNU about the issue on April 2, 2021, one Aurora VA nurse provided a compelling example of how these schedule changes have affected patients, writing, "Early and frequent patient ambulation is critical to positive outcomes for post-op patients. Morning ambulation has nearly ceased since the shift change. It has become problematic to fit the morning ambulation in without forcing a patient awake during early morning hours. It is then delayed by shift change, interdisciplinary rounds, breakfast, and other morning obligations." Clearly, patients are not receiving the highest standard of care if these schedule changes have caused nurses to be unable to help patients with a critical part of their recovery. Another nurse wrote simply, "I think patient safety stands at the front of this issue."

The inpatient units affected by these schedule changes have since lost over a dozen experienced RNs and are having a difficult time replacing them. One of the nurses above wrote in her survey that she knows of "at least seven RNs that are currently looking for other jobs." Being understaffed has led to severe nurse-to-patient ratio problems at the Aurora VA, causing dangerous and unsafe situations for veterans. Due to short staffing in units like the Intensive Care Unit (ICU), one of the most severely impacted by this schedule change, RNs from other units are being floated to units (such as the ICU) where they have not been properly trained, creating the potential for harm to both the veteran and the RN.

Changing nurse schedules and the tours of duty that nurses want creates instability and confusion for nurses and their patients, and the Aurora VA is just one example of how VA management uses Section 7422 in ways that harm nurses and patients at the VA. Understaffing is a problem across the entire VA system. Currently, there are 6,887 RN openings across the VA, 4,955 of which are unfunded. Each vacancy represents veterans that are not getting the care they deserve. Because Section 7422 prevents VA nurses from having a voice on the job, qualified nurses have an incentive to leave the VHA and work at a neighboring, private sector unionized hospital that pays better and offers a contract with full bargaining rights.

Nurses are the heart and soul of any hospital, and there is no substitute for the care and attention that nurses provide to their patients. When nurses are not allowed to bargain over specific issues relating to compensation, clinical competence, and patient care, not only does morale suffer and turnover increase, but larger issues within the hospital that

directly impact veterans go unaddressed. As workers on the frontlines of patient care, nurses must have the ability to advocate for their patients and ultimately improve the quality and standard of care provided by the VA.

The VA Employee Fairness Act (H.R. 1948)

H.R. 1948, the VA Employee Fairness Act introduced by Chairman Takano, would provide the same bargaining rights to health care professionals as other federal employees, giving RNs in VA hospitals the tools to speak up for patient safety and care. This bill will reduce turnover, increase staff levels, and improve the care that veterans receive by repealing the provisions from Section 7422 that limit collective bargaining rights for VA nurses.

VA nurses want what is best for veterans. Providing nurses and other clinicians with full collective bargaining rights is the best way to ensure that problems in our VA hospitals are addressed and that our nation's heroes receive the highest standards of care.

We know that President Biden agrees with us. In Executive Order 14003 he wrote, "It is the policy of the United States to protect, empower, and rebuild the career Federal workforce. It is also the policy of the United States to encourage union organizing and collective bargaining. The Federal Government should serve as a model employer." The VA needs to fully comply with that executive order by respecting the rights of its registered nurse workforce, and the Congress needs to codify this by passing the VA Employee Fairness Act.

In conclusion, for registered nurses, union advocacy and representation allow us to focus on what we do best: caring for our patients. Without full collective bargaining rights, nurses' ability to speak out on behalf of patients is reduced and threatened, and we are constrained from advocating for the highest quality of safe patient care that our veterans deserve.