Statement for the Record

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Committee on Veterans' Affairs, Subcommittee on Oversight and Investigations
U.S. House of Representatives

Hearing on
Accountability for the Department of Veterans Affairs
"Restore VA Accountability Act of 2023"

July 12, 2023

Thank you for this opportunity to present a statement on H.R. 4278, "Restore VA Accountability Act of 2023."

I am Professor Emeritus and Former Dean of the University of Maryland School of Public Policy, and a Fellow of the National Academy of Public Administration. However, in submitting this statement, I am speaking only for myself.

Summary

This proposed legislation is, I believe, a serious mistake that would harm the Department of Veterans Affairs and injure the nation's effort to care for those who have given so much to it. In summary, here's why:

- The legislation misunderstands what accountability means.

- It assumes that we ought to run government more like a business. That's precisely what we should do—but we should manage government the way the best-managed businesses are led. The proposed legislation would not do that.

- The legislation argues that performance in the VA would improve by firing poor performers. However, there's no evidence that the VA's rate of firing poor performers is lower than in the private sector. In fact, it's probably significantly higher.

- The health industry is struggling with a manpower crisis—and no expert thinks that the best way to address the problem is to fire more employees.

- The act would destabilize the VA, which would only erode its performance.

- Good management is impossible to legislate. It's a people process. The proposed legislation attempts to mandate good management instead of creating the foundation for doing so.

- There are better alternatives to improving the VA's performance.

Let me explore each of these issues in more detail.

We must understand what accountability <u>really</u> means

Accountability describes many relationships, and it's often used in a fuzzy way. In fact, it's often used interchangeably to describe the responsiveness of career officials to the policy goals of political appointees; the resistance of these career officials to policy direction; *and* the challenge of dealing with poor performers.

These approaches are not—and should not be considered—interchangeable. Rather, accountability needs to be understood as a relationship: who is accountable to whom, for what? Good management needs to begin by specifying this relationship. Focusing on firing employees misunderstands how accountability ought to work.

We <u>should</u> manage government like a business—according to the best business practices

We often begin the debate about government reform by arguing that it ought to be run more like a business. That's an excellent idea—but it requires actually running the government according to the practices of the best-run private companies. H.R. 4278 does not bring to the government what these best-run companies actually do. No effective 21st-century company would focus on firing poor performers to improve its results.

The broader debate has been going on for a very long time. For example, consider this assertion:

> I seek to run [the government] as any honest man attempts to run his business and to live within my revenue.

The statement came from a progressive, not a conservative. It came 85 years ago. And it came from New York Mayor Fiorello La Guardia.[1]

Much of the criticism of the government contends that government would be better if it were run more like a business, that it brought more accountability to employees, and that the key to improving accountability is to make it easier to fire poor performers. As Rep. Mike Bost has said in support of this legislation, "In order to best serve veterans, the VA Secretary must have the authority to quickly and fairly remove, demote, or suspend bad employees who are undermining the quality of services that our veterans have earned."[2]

This, however, is not how the best managers manage in the private sector. For example, Paul Zak in the *Harvard Business Review* concluded, based on extensive research, that the keys to effective management are "setting a clear direction, giving people what they need to see it through, and then getting out of their way. In short, to boost engagement, treat people like responsible adults."[3]

Moreover, if a manager is concerned about the performance of a subordinate, Rebecca Knight wrote in the *Harvard Business Review* that it is essential to consider the root cause of an employee's problems, seek input from trusted employees, be transparent with the employee and provide an opportunity to improve, consult closely with the human resources team, and focus on three or four areas an employee needs to work on.[4] There is no basic guide to good business management that elevates firing employees to the first level of action.

Firing is a symptom of bad hiring.

There's no evidence that the rate of firing in the VA is lower than in the private sector—in fact, it's probably significantly higher

The underlying assumption of H.R. 4278 is that the VA needs to operate more like the private sector and that the key to doing so is firing poor performers. But how do the VA's personnel practices compare with the private health industry?

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[1] Quoted by Philip Bump, "Trump's idea to run the government like a business is an old one in American politics," *Washington Post* (March 27, 2017), https://www.washingtonpost.com/news/politics/wp/2017/03/27/trumps-idea-to-run-the-government-like-a-business-is-an-old-one-in-american-politics/

[2] Quoted by Ripon Advance News Service, "Bost, Moran unveil Restore Department of Veterans Affairs Accountability Act," *The Ripon Advantage* (July 7, 2023), https://riponadvance.com/stories/bost-moran-unveil-restore-department-of-veterans-affairs-accountability-act/

[3] Paul J. Zak, "The Neuroscience of Trust," *Harvard Business Review* (January-February 2017), https://hbr.org/2017/01/the-neuroscience-of-trust

[4] Rebecca Knight, "How to Decide Whether to Fire Someone," *Harvard Business Review* (January 28, 2019), https://hbr.org/2019/01/how-to-decide-whether-to-fire-someone

A precise comparison across the federal and private sectors is impossible because the U.S. Bureau of Labor Statistics does not tabulate its statistics in that way. However, the following figure provides a very useful comparison, based on BLS data (for the private sector) and the U.S. Office of Personnel Management's FedScope (for the VA's Veterans Health Administration).

Separations from the health workforce
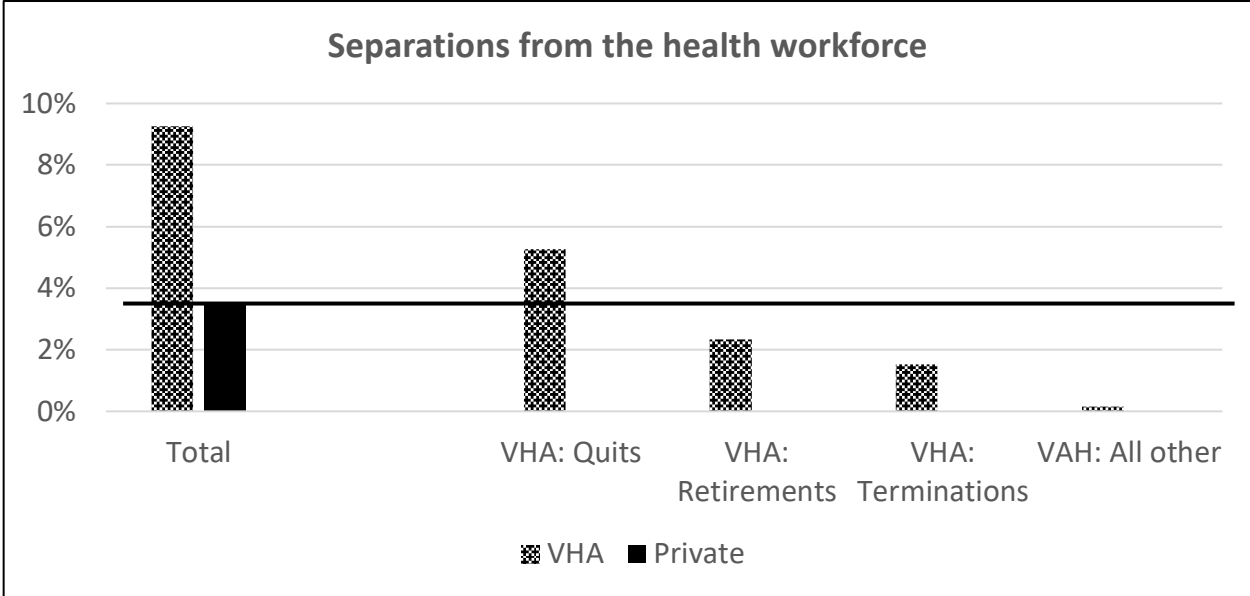
Source: U.S. Bureau of Labor Statistics, *Economic News Release: Table 3—Total Separations Levels and Rates by Industry* (May 31, 2023), https://www.bls.gov/news.release/jolts.t03.htm; and U.S. Office of Personnel Management, *FedScope,* http://bit.ly/444DGdo

The comparison between the Veterans Health Administration and the entire healthcare industry shows that:

- Separations from the VHA are _2.6 times higher_ than in the healthcare industry overall.

- The rate of employees who quit the VHA is _1.5 times higher_ than the _total_ separation rate in the healthcare industry overall.

- The rate of terminations for cause in the VHA is _43 percent of the total separation rate_ in the entire healthcare industry. We don't know the rate of firing for cause in the private sector. But especially given the severe personnel shortages in the overall healthcare industry, it is certain that private healthcare employers are seeing a very large turnover rate as well. It's a very good bet that nearly half of the separations in the private industry are _not_ firings for poor performance.

The health industry is struggling with a manpower crisis—and no expert thinks that the best way to address the problem is to fire more employees

In a March analysis of the industry, Margaret Lindquist at Oracle found, "Staffing tops the list of healthcare industry challenges" in 2023. She continued, "Workers retired due to burnout or went to work for organizations offering higher pay or better work-life balance." The result was "substandard patient care" and "lower morale."[5]

To solve the problem, "organizations must first improve employee well-being." Five steps, Oracle concluded, show the way:

1. Be intentional when hiring
2. Offer flexible work schedules
3. Prioritize onboarding and training
4. Provide career development and continuing education
5. Improve technology

A thorough analysis of the situation led to a clear conclusion: organizations "need to do all they can to keep people engaged and happy in their working lives."[6]

In a global study of performance challenges in the healthcare industry, McKinsey, the international consulting firm, found that a toxic workplace culture was the biggest single predictor of turnover during the "Great Attrition" in the early 2020s—ten times more important, in fact, than compensation.[7]

McKinsey pointed to the importance of "solving the right problem." That is not what H.R. 4278 does.

The single-minded focus on firing in the "VA Accountability and Whistleblower Protection Act of 2017" set the department down the wrong road, as the VA's Office of Inspector General found. In fact, the office charged with implementing the act "leaders made avoidable mistakes early in its development that created an office culture that was sometimes alienating to the very individuals it was meant to protect."[8] The VA stumbled in the act's implementation because it

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[5] Margaret Lindquist, "The Real Costs of Healthcare Staff Turnover," *Oracle* (March 22, 2023), https://www.oracle.com/human-capital-management/cost-employee-turnover-healthcare/#:~:text=In%20This%20Article&text=It's%20no%20wonder%3A%20Hospital%20staff,burden%20on%20finances%20and%20resources.

[6] Ibid.

[7] McKinsey & Company, "Addressing employee burnout: Are you solving the right problem?" (May 27, 2022), https://www.mckinsey.com/mhi/our-insights/addressing-employee-burnout-are-you-solving-the-right-problem

[8] Office of Inspector General, U.S. Department of Veterans Affairs, *Office of Accountability and Whistleblower Protection: Failures Implementing Aspects of the VA Accountability and Whistleblower Protection Act of 2017*, Report #18-04968-249 (October 24, 2019), ii, https://www.va.gov/oig/pubs/VAOIG-18-04968-249.pdf.

misinterpreted its statutory authority, pursued inconsistent and biased reviews, and failed to follow policies that produced sound decisions.

The VA is struggling with many of the same human capital issues as the rest of the healthcare industry although, as the figure above shows, the problems in the VA are larger, especially with a high rate of turnover. McKinsey has this recommendation:

> Employers can and should view high rates of burnout as a powerful warning sign that the organization—not the individuals in the workforce—needs to undergo meaningful systematic change.[9]

The implications for the VA are powerfully clear. If there is a problem of high turnover—and the VHA's turnover is far higher than in the rest of the healthcare industry—performance problems are inevitable. The key to solving these problems is to lead fundamental strategies for systemic change. Focusing on firing individuals aims at the wrong problem and is sure to make things worse. The evidence, from experts in the US and around the world, simply could not be clearer on this point.

The act would destabilize the VA, which would only erode its performance

There was a time in the 1990s when experts hailed the VA as one of the most-improved agencies in the entire federal government.[10] In 2014, however, efforts to hide long wait times for VA appointments produced a national scandal. The department has been struggling for nearly a decade to find its footing.

No organization can right itself when it's whipsawed by a shifting legal foundation. That, sadly, is just what happened with the hurried implementation of the "VA Accountability and Whistleblower Protection Act of 2017." The proposed legislation would create even more instability.

The VA's Inspector General in 2019 found:

> . . .in its first two years of operation, the OAWP [Office of Accountability and Whistleblower Protection} acted in ways that were inconsistent with its statutory authority while it simultaneously floundered in its mission to protect whistleblowers. Even recognizing that organizing the operations of any new office is challenging, OAWP leaders made avoidable mistakes early in its development that created an office culture that was sometimes alienating to the very individuals it was meant to protect. Those leadership failures distracted the OAWP from its core mission and likely diminished the

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[9] McKinsey, "Addressing Employee Burnout."

[10] Charles S. Clark, "Reinventing Government -- Two Decades Later," *GovExec.com* (April 26, 2013), https://www.govexec.com/management/2013/04/what-reinvention-wrought/62836/

desired confidence of whistleblowers and other potential complainants in the operations of the office.[11]

Creating yet more instability, especially through the process envisioned in H.R. 4278, would only disrupt the ongoing effort to improve the VA's management and pull the department's strategy further out of sync with best management practices.

Moreover, the VA doesn't actually need more authority to fire poor performers. As FactCheck.org found in 2018, "it was already possible for workers to be relieved of their duties" before the legislation passed in 2017.[12] What the VA does need is a steady platform on which to manage the department in the interest of the veterans—and managers with the strategy and support to manage well.

Anyone who has ever tried to navigate a boat rolling in heavy seas knows just how hard it is to move effectively if the deck is constantly shifting underneath.

Good management is impossible to legislate—it's a people process

For at least the last forty years, governments around the world have developed a laser-sharp focus on how best to improve their performance. Two conclusions come from this effort.

First, no government anywhere has made firing employees any significant part of its strategy.

Second, no government anywhere has been successful in legislating good management. For example, New Zealand's government management reforms focused on "making the managers manage." The noted public management expert Tom Christensen found instead that "the country has got the worst of both worlds—i.e., poor management and too little political control."[13] To correct those problems, New Zealand shifted its management strategy to provide managers with more flexibility and to focus on achieving outcomes.

Management in general—and the management of people in particular—is an intricate process that requires deft interpersonal skills and strong political support. The proposed legislation erodes them both, in the quest for strategies that either have been rejected elsewhere or that have been tried but failed.

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[11] Office of Inspector General, Office of Accountability and Whistleblower Protection, ii.
[12] D'Angelo Gore, "VA Could Fire Workers Before Trump Signed Law," *FactCheck.org* (July 27, 2018), https://www.factcheck.org/2018/07/va-could-fire-workers-before-trump-signed-law/
[13] Tom Christensen, "Administrative Reform: Changing Leadership Roles?" *Governance* 14:4 (October 2001), 473.

There are better alternatives for improving the VA's performance

The National Academy of Public Administration has developed a game plan for improving the government's performance by improving its people systems. (This is an effort to which I've contributed.) The strategies and tactics laid out in its recommendations suggest a far better approach.[14]

- *Make mission matter most.* The foundation of the VA, as is the case for all government agencies, is its mission. The VA's motto puts it clearly: "To fulfill President Lincoln's promise to care for those who have served in our nation's military and for their families, caregivers, and survivors."

- *Move from a culture of compliance to performance.* Process, especially the process of firing employees, should not overtake a commitment to results.

- *Focus on employees' competencies, not pigeon-holed siloes.* The changing nature of work calls on smart leaders to build teams of effective managers who use their tools to produce strong outcomes.

- *Focus on fit.* Many issues that appear to be matters of poor performance are often the product of a poor fit of an employee with the job. Improving both human capital planning—to understand the needs of a position—and hiring—to match prospective employees with that position—are far more important than concentrating on firing "poor performers."

- *Accountability builds on performance.* An effective twenty-first-century government needs to shift its model of accountability to discovering how best to accomplish its mission.

- *Be flexible, test results, and adopt what works.* Government management needs to provide managers with the flexibility to manage—but to assess carefully what that flexibility produces, discard what doesn't, and do more of what works. This, in fact, ought to be the new driver of accountability.

- *Focus more attention on hiring, not firing.* The key to developing the most effective workforce lies in hiring well, by identifying the skills that the agency needs to accomplish its mission and working aggressively to find the employees who best fit the bill.

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[14] National Academy of Public Administration, No Time To Wait: Building a Public Service for the 21st Century, Parts 1 and 2 (July 2017 and September 2018), https://napawash.org/academy-studies/no-time-to-wait-part-2-building-a-public-service-for-the-21st-century; and "From Academy Fellows: Proposals to Modernize and Reinvigorate the Federal Civil Service" (February 27, 2023), https://napawash.org/standing-panel-blog/no-time-to-wait-3-the-challenge-of-modernizing-the-civil-service-2

- *Address poor performance problems during the probationary period.* Allowing new employees to drift through the probationary period without guidance and then concluding later that they are performing poorly is bad management. Accountability comes from addressing performance early and not firing later.

- *Create more flexible off-ramps.* It is far better to help employees who aren't a good match for an organization to find better opportunities rather than to fire them precipitously. A focus on firing creates morale problems percolating throughout an organization. Managing government more like a business means creating the authority to use private-sector tools like providing severance packages. That's the approach of leading private companies, where their human resource managers agree that it's better—for everyone—to encourage poor performers to resign rather than to fire them.[15]

Conclusion

An expedited removal, demotion, or suspension authority neither fits the best practices for accomplishing the VA's mission nor serves the needs of the nation's veterans. The nation's overall healthcare environment is experiencing the biggest challenges in a generation. The federal government's policymakers have an inescapable imperative to help the VA tackle these challenges "to care for those who have served."

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[15] Paul Bergeron, "Resign or Be Fired: Which Is Best?" (Society for Human Resource Management, July 14, 2020), https://www.shrm.org/resourcesandtools/hr-topics/organizational-and-employee-development/pages/resign-or-be-fired-which-is-best.aspx