

October 13, 2017

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Ranking Member Tim Walz  
United States House Committee on Veterans' Affairs  
333 Cannon House Office Building  
Washington, D.C. 20515

Chairman Roe and Ranking Member Walz:

I serve as the Senior Vice President of Government Relations at the American Health Care Association (AHCA), the nation's largest association of long term and post-acute care providers. The association advocates for quality care and services for the frail, elderly, and individuals with disabilities. Our members provide essential care to millions of individuals in more than 13,500 not for profit and for profit member facilities.

AHCA, its affiliates, and member providers advocate for the continuing vitality of the long term care provider community. We are committed to developing and advocating for public policies which balance economic and regulatory principles to support quality of care and quality of life. Therefore, I appreciate the opportunity today to submit a statement on behalf of AHCA for the hearing record regarding establishing a permanent Veterans Choice Program.

As you know, skilled nursing care centers were not included in the Veterans Choice Program as one of the eligible health care providers. That being said, AHCA has been advocating for policies which would grant the U.S. Department of Veterans Affairs (VA) the legislative authority to enter into Provider Agreements for extended care services. VA Provider Agreements would ensure that our centers are able to care for veterans in their communities or in close proximity to their families and support system. Our centers already meet very strict compliance guidelines under the Medicare and Medicaid programs. Adding additional regulations on top of this is simply inefficient, redundant, add cost and takes staff time away from these veterans at the bedside.

As you are aware, the VA released a proposed rule, RIN 2900-A015, on Provider Agreements in February of 2013. This important rule, among other things, increases the opportunity for veterans to obtain non-VA extended care services from local providers that furnish vital and often life-sustaining medical services. This rule is an example of how government and the private sector can effectively work together for the benefit of veterans who depend on long term and post-acute care.

In 2014, close to half of the U.S. Senate chamber and 109 U.S. House members signed onto a letter to the VA encouraging the release of the final VA provider agreement rule. It was ultimately determined that the VA needs the legislative authority to enter into these agreements.

It is long-standing policy that Medicare (Parts A and B) or Medicaid providers are not considered to be federal contractors. However, if a provider currently has VA patients, they are considered to be a federal contractor and under the Service Contract Act. The Office of Federal Contracting Compliance Programs (OFCCP) has administered onerous reporting requirements and regulations even beyond those required by Medicare and Medicaid rules, which have dissuaded nursing care centers from admitting VA patients. This limits the care available to veterans needing long term care in their local communities. Our veterans should not have to choose between obtaining the long term care services they need and remaining near loved ones in their community. Conversely, the same centers contracting with the Centers for Medicare and Medicaid Services (CMS) are not subject to the OFCCP regulations.

AHCA has been advocating for legislation that would make the VA requirements for providers the same as they are for CMS and waives the OFCCP federal contracting requirements. Legislation has been introduced in both chambers in the past to address this issue, including in this Congress. Earlier this year, Senators John Hoeven and Mike Rounds introduced the Veterans Access to Long Term Care and Health Services Act (S. 1611) that would ensure that extended care providers, including nursing center care, could legally enter into VA Provider Agreements, and would be subject to the same rules and regulations as any other Medicare or Medicaid provider. Senator Hoeven secured a commitment from Department of VA Secretary Dr. David Shulkin to work together on this effort. The Senator also secured a provision in the Fiscal Year 2018 VA funding bill expressing congressional support for allowing non-VA long-term care facilities to enter into provider agreements with the VA. The VA is in support of provider agreements for extended care services. There are plans for a House companion bill to S. 1611 to be introduced in the near future by Representative Bruce Poliquin.

The use of Provider Agreements for extended care services would facilitate services from providers who are closer to veterans' homes and community support structures. Once providers can enter into Provider Agreements, the number of providers serving veterans will increase in most markets, expanding the options among veterans for nursing center care and home and community-based services.

AHCA appreciates the fact that your committee and the U.S. Senate Veterans' Affairs Committee has discussed and considered VA provider agreement related legislation. AHCA will continue to advocate for a VA provider agreement legislative proposal that will ensure that those veterans who have served our nation so bravely have appropriate access to quality health care. Thank you again for the opportunity to comment on this important matter. If you have any questions, please do not hesitate to contact me at [cporter@ahca.org](mailto:cporter@ahca.org) or AHCA's Senior Director of Not for Profit & Constituent Services, Dana Halvorson, at [dhalvorson@ahca.org](mailto:dhalvorson@ahca.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Clifton J. Porter II', with a stylized flourish at the end.

Clifton J. Porter II  
Senior Vice President of Government Relations