



# CONGRESSIONAL TESTIMONY

STATEMENT BY

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BEFORE

**HOUSE COMMITTEE ON VETERANS’ AFFAIRS**  
**Subcommittee on Oversight and Investigation and Subcommittee on Health**

ON

**“VHA RECRUITMENT AND RETENTION: IS BUREAUCRACY HOLDING BACK A QUALITY  
WORKFORCE?”**

**MAY 17, 2023**

Chairwoman Miller-Meeks, Ranking Member Brownley, Chairwoman Kiggans, Ranking Member Mrvan and Members of the Health and Oversight and Investigation Subcommittees:

Thank you for inviting the American Federation of Government Employees (AFGE) to participate in today's joint subcommittee hearing, "VHA Recruitment and Retention: Is Bureaucracy Holding Back a Quality Workforce?" I am Mary Jean "MJ" Burke, and I am the first vice president of AFGE's National Veterans Affairs Council, representing more than 291,000 AFGE VA employees across the Veterans' Health Administration (VHA), Veterans Benefits Administration (VBA), and the National Cemetery Administration (NCA). I also am a practicing physical therapist at the Indianapolis VA in Indiana.

AFGE and its National Veterans Affairs Council (NVAC) are pleased to provide our views and recommendations on VA staffing, recruitment, and retention, including improving compensation and work conditions and reversing the negative impact of human resources modernization on hiring and employee satisfaction.

I want to state at the outset that I consider my decision to work for VA as one of the best decisions I've made professionally. The VA model for integrated care should be a model for all care. Additionally, the VA's veteran-specific expertise cannot be replicated outside of the VA. My comments in no way reflect a diminishment of that belief. VA must course correct to be able to continue to provide top-notch care to veterans who prefer to seek their care at the VA.

VA staffing shortages remain an ongoing cause of concern for both veterans and the AFGE members who care for them. According to VA's 2023 first quarter vacancy report, VA turnover, now at 9.95 percent, has been increasing in recent quarters. Although VA reports a

net hiring of 7,364 employees through March, its own data—inaccurate even five years after the Mission Act passage—still show over 70,000 vacancies. A recent survey of AFGE membership, conducted by the Veterans Healthcare Policy Institute (VHPI) with AFGE support, showed that 96 percent of VHA respondents believe their facility needs more frontline clinical staff to provide the level of care veterans deserve. Seventy-five percent said their facility needs more administrative staff. Seventy-seven percent said that there are vacant positions for which no recruitment is taking place.

Pay and benefits that are comparable to what competing employers provide, reasonable scheduling and streamlined hiring processes are all vitally necessary to attract and retain a high-caliber VA workforce capable of providing veterans the care they need.

### **Compensation**

Compensation that is timely, accurate and competitive with local market conditions is imperative to successfully attract and retain a high-caliber VHA workforce. VHA has been inconsistent and nontransparent in implementing pay laws and policies designed to make clinician pay competitive with the private sector. When these compensation practices are allowed to go unchecked, they result in barriers to hiring and retaining employees. This seems intuitively not in the public interest or consistent with congressional intent.

The VA has different pay systems for physician and nurses. The current pay system for physicians, dentists and podiatrists is composed of market pay, performance pay and longevity pay. When they rolled out the three-tiered system pay system, it was intended to make pay more competitive with local markets and to incentivize individual professional performance, while also rewarding retention and experience. However, since this pay system was enacted

nearly two decades ago, there have been widespread management inconsistencies with processes for setting market pay and performance pay.

Market pay data are no longer required to be publicly reported in the Federal Register, so it is difficult to know how “market pay” is set and allocated. This has facilitated a lack of transparency and therefore little accountability for medical directors who don’t set market pay fairly or rationally. Our members report indefensible levels of variation in market pay. For example, some similarly situated clinicians at facilities in similar markets receive radically different market pay. We frequently hear reports of long-serving, experienced, highly credentialed clinicians sometimes receiving lower market pay than new employees in the same facility.

Short-sighted strategies to recruit new employees at the expense of existing employees only exacerbate problems with retention as new doctors increasingly see VA as a good place to train but not to stay. VA must develop policies that will attract physicians over the continuum of a career and across the spectrum of specialties and pay levels; otherwise fixes to one set of problems will only create new ones.

Performance pay distribution has also been inconsistent. In some facilities, performance pay functions as a retention bonus or award. However, providers should expect to receive performance pay if they meet the performance goals as a component of their salary. In other facilities, the metrics used to assess performance don’t align with what is in the physician’s control and therefore can be unattainable. For example, a doctor may not get performance pay because it is tied to the number of appointments kept but that number may

be affected by the number of no shows, which is not in the doctor's control and tends to be high at the VA.

Among Title 38 positions, third party locality surveys for registered nurses (RNs) and physician assistants (PAs) are not being executed transparently even though by congressional intent and VA regulations they should be.

The VA is mandated to perform third-party RN locality pay surveys, which are triggered by factors such as turnover rates, resignations due to dissatisfaction with pay, or other criteria set by the facility director. But it is mostly a big mystery to both employee representatives and employees when, or if, surveys are being executed. Directors are required to decide within 30 days after receiving the survey data back whether an increase is warranted. If an increase is warranted, it should be implemented within a pay period of that decision. But VA's lack of transparency about the underlying information needed to calculate turnover and vacancy rates makes it hard to determine whether the agency is compliant with its legal obligations under Title 38.

Even though by law VHA cannot be a market leader in pay, existing processes designed to meet the market can and should be used far more effectively, starting with the restoration of labor-management collaboration. Our union can play an important and critical role in facilitating compliance with survey requirements if we had better information about the data and timelines that trigger survey requirements. However, we have often been denied access to pay data or provided access to the data without sufficient information about how and when it

was collected. This undermines our ability to monitor whether surveys are being conducted in a timely and appropriate way.

### **Human Resources Modernization**

The success of VHA's human resource practices has varied widely across facilities. Facilities with experienced managers, good labor-management relationships, and an adequate number of trained and experienced HR specialists fare better than others. It is important that management and HR specialists understand the law and their own policies that improve recruitment and retention. The quality and quantity of care VHA is able to provide to veterans depends upon it.

Unfortunately, VA's misguided HR modernization effort, which has removed HR personnel from facilities and centralized the HR function at the VISN level augmented by automation, has significantly undermined recruitment and retention efforts. Half of respondents in the VHPI survey said that the VHA's Human Resources Modernization Project has exacerbated delays in hiring and is contributing to staff leaving the VA. Just over 90 percent said HR delays had deterred interested candidates.

VHA's transition to HR Smart and a virtual environment has further depersonalized the HR process, leaving unions and employees further marginalized from efforts to recruit and retain clinicians. Union representatives are now forced to go to the USA Jobs website to find out what positions are being recruited. The paper organizational charts which showed which positions have been funded or approved are not easy to locate or are nonexistent. As a result, it is difficult to know what the true VA vacancy rate is.

VHA's transition to a predominantly technology driven environment devoid of face-to-face interaction has also damaged workplace morale. As we have testified previously, when VHA overuses data metrics to try to increase clinician productivity, it further drives hard-to-recruit personnel into the private sector. Because VA by law cannot be a pay leader, VA employment has historically appealed to clinicians drawn to serve its unique patient population while having an adequate work-life balance. If these clinicians were motivated solely by income, they would choose the higher paying private sector environment. But the combination of clinician shortages that are driving up pay outside the VA while simultaneously exacerbating VA employee workloads are making the VA a less attractive place to work.

Widespread human resource errors create further barriers to retention and recruitment and tarnish VA's reputation as a good faith employer. Prospective employees accept VA job offers based on salaries, duties and schedules outlined in tentative offer letters. When they report to the job, they are informed by HR or their manager that their salary, job description or schedule differs from the offer made by VA. These individuals may have given notice at a previous job, declined a competing offer, or relocated based on these erroneous offers. Congressional oversight is needed in this area, specifically.

Additionally, VA employees receive debt letters to recoup money they were erroneously paid due to HR coding mistakes. New employees already on the job have been hit with debt letters when HR discovers that they were paid more than they should have due to a coding or job offer mistake by HR. The employees are informed that not only will they receive a wage or salary reduction, but that the payroll department will claw back the money already paid to them.

It not AFGE's belief that inexperienced HR officials intentionally miscode personnel records. Rather, the agency seems to have a lack of a formalized, mentoring and teaching curriculum for VHA, specifically developed for the necessary HR coding requirements within HR smart that matches VHA complex policy and personnel system to assure mastery. Most troubling, if a miscoding error by a HR official occurs that results in employee debt, the agency seemingly has no systematic after-action plans for correction within a learning module, so these errors don't happen again. Historically, VA has sought to remedy issues like this by asking to streamline HR processes by moving more employees to Title 38. But that is not the answer. Rather, VA must develop a stringent complete curriculum related to those HR errors that resulted in employee debt to prevent those actions from occurring again.

Underlying many of the problems related to compensation and HR are limitations on employees gaining redress for them under 38 U.S.C. §7422, which prevents employees from using grievance procedures from a collective bargaining agreement "for any matter or question concerning or arising out of the establishment, determination, or adjustment of employee compensation." The bar on grieving compensation means that employees cannot grieve paycheck errors even if it is clear that VA is at fault. Further, VA uses an overly broad interpretation of §7422 to improperly deny union access to information about whether market pay surveys are done at all, citing the inability to grieve compensation under §7422 as a complete bar to obtaining information about locality pay surveys mandated separately under 38 U.S.C. §7451.

## **Scheduling**



VA staffing shortages are driving longer hours for clinicians at the same time that VA salaries lag the market. VHA bookable clinical hour standards are making working conditions for already underpaid clinicians untenable. Under the standard, 80 percent of a provider's total outpatient clinically mapped time must be booked for in-person, telehealth or telephone direct care. While this standard sounds reasonable on its face, at times, it isn't achievable when you have too many patients to see (often doctors must cover for vacant positions) and insufficient administrative staff. Many clinicians report working excessive hours off-the-clock to meet the 80 percent standard while also responding to time-sensitive inquiries known as view alerts for other patients who are not booked for purposes of meeting the productivity standard.

VA nursing is currently experiencing similar strains. VA shifts and days off have become less predictable. Nursing supervisors often lack the hands-on experience to understand the experiences and needs of front-line nurses. Nurses fear they will be punished with a bad schedule or have requests for days off denied if they speak up.

Despite their preference to work with veterans, nurses will leave for the private sector where they can get predictable schedules and be paid full-time for three 12-hour days. In addition, private sector nurses have extensive collective bargaining rights that are absent at the VA, including the right to bargain over pay and patient safety issues.

I also want to highlight to the committee that this hearing falls in the middle of police week. AFGE and the NVAC is proud to represent thousands of VA Police at facilities across the country and appreciates the sacrifice and service these employees, 90 percent of whom are veterans themselves, make every day to protect veterans and VA employees. To help honor

that dedication, AFGE strongly encourages the passage of H.R. 1322, the “Law Enforcement Officers Equity Act.” This bipartisan legislation would grant more than 30,000 federal officers, including VA Police Officers, "6(c)" retirement benefits (under 5 USC 8336(c)) and the ability to retire after 20 years of service at the age of 50, or after 25 years of service at any age. Last Congress, this bill gathered 105 bipartisan co-sponsors, and I want to thank House Veterans Affairs’ Committee Chairman Bost, Ranking Member Takano, and Reps. Mrvan, Brownley, and Deluzio, who have co-sponsored the bill this Congress at the time this statement was submitted.

**AFGE Recommendations:**

- VHA must provide HR officials with proper training to code VHA personnel records and create mandated after-action plans when they inadvertently create employee debt.
- VHA should make third-party locality pay surveys accessible to help more front-line RNs and PAs secure needed pay adjustments.
- Union representatives should receive the same training on the locality pay survey process that managers receive.
- There must be more serious accountability for HR’s responsibilities to follow appropriate processes and to provide all allowable compensation, including the use of flexibilities (such as special salary rates, recruitment and retention bonuses, student loan repayment, education debt reduction program awards and performance pay).
- Congress should enact H.R. 543, the “VA Continuing Professional Education (CPE) Modernization Act,” which passed this committee last Congress in a bipartisan vote and

would increase the eligibility for VA clinicians to receive CPE, increase the reimbursement amount, and adjust the amount for inflation.

- Changes to law or policy are needed to improve the union's access to recruitment and retention information, specifically which positions and types of recruitment efforts are being made. We also need staffing information, such as access to information about nursing hours per patient day, turnover rates, vacancies, and authorized ceilings (the maximum number of people allowed to be hired for a specific unit). We should not have to file a grievance to get this critical information.
- VA should regularly report information about each VA entity that conducts a market pay evaluation including whether a market pay adjustment was made following the evaluation (per occupation and specialty) and whether employees and local union representatives were notified of the evaluation.
- VHA should change scheduling policies so that they are sustainable for employees.
- VHA should develop staffing requirements for high-risk individuals with service-connected mental health problems. The length of time before for follow-up visits and the volume of patients assigned needs congressional oversight to ensure that patients can get recommended care.
- Congress should amend 38 U.S.C. §7422 to allow for full collective bargaining rights for title 38 employees including the ability to grieve violations of VA pay policies.

Thank you for giving me the opportunity to testify at today's hearing. I look forward to answering any questions you may have.

