

November 30, 2017

Dear Chairman Roe, Ranking Member Walz, and members of the House Veterans' Affairs Committee,

My name is Kenneth Myrick and I very much appreciate the opportunity to submit this statement to the House Veterans Affairs' Committee. Thank you for holding this important hearing and letting me share my story with you. I hope it will lead to legislation that will prevent what happened to me and the 87 other Maine veterans from ever happening to any other veterans ever again. I would like to thank Congressman Bruce Poliquin for his work on this. This issue must be addressed and that is why I reached out to him about this. Maine veterans are fortunate to have him fighting for us in Congress.

Veterans like myself serve in the United States military out of a sense of duty and honor to our country that we love. When we return home from the battlefield, we place our trust and faith in the VA to help take care of our service connected injuries and ailments. Regretfully, this trust and faith have been shattered for myself and the 87 other Maine veterans who received substandard care from Dr. Thomas Franchini at Togus Medical Center in Augusta, Maine.

I would like to share my story with you. I enlisted in the United States Army in 1998 and was medically discharged in November 2003 after undergoing a high tibia osteotomy (HTO) to correct knee problems suffered while on active duty.

In 2004, I began to notice an increased pain, discomfort and instability with my left ankle. I was referred to Dr. Thomas Franchini, a foot surgeon at Togus from my VA primary care physician. After a thorough examination, Dr. Franchini determined that my left ankle had undergone structural changes in order to compensate for my left knee alteration and was also a contributing factor to my ongoing knee pain. He recommended that I have corrective surgery, which I did shortly after. Dr. Franchini performed the surgery in 2005.

Between 2005 and 2010, I continued to experience severe ankle pain, discomfort and instability. I continued seeing Dr. Franchini for this problem. During this time, he recommended orthotics, ankle braces, x-rays, and ultimately diagnoses the problem as a bone spur and recommended another surgery.

During this time, I also began experiencing severe pain in my left knee, left hip, and lower back. There were days when I could not get out of bed due to the pain. I had to leave my job as a corrections officer because I could not keep up with the physical requirements for the job. I could not teach my son football, basketball or any other sports because of the pain they would cause. I had to stop running and biking. I missed out on hunting trips with my son and brother because I could not carry my gear and pack through the weeks. I could not take my little girl to the playground. My quality of life became so limiting, and I became severely depressed.

In February of 2013, I received a phone call from Togus asking if I would participate in a reevaluation of my left ankle surgery. I agreed and was seen by Dr. Sang at Togus shortly thereafter.

Following the evaluation, I met with Togus Director Ryan Lilly, at his request, to discuss the outcome of the evaluation and care provided by Dr. Franchini. I met with Director Lilly on March 25, 2013. During this meeting, Director Lilly and his staff told me that the care I received from Dr. Franchini failed to meet the standard of care required, thus resulting in failed ankle reconstruction and the direct cause of my continuous pain and discomfort I had been experiencing for several years. It was also explained that the surgery is what led to the deterioration of my left knee, hip, and lower back. During this meeting, Director Lilly apologized and gave me two legal forms should I want to bring action against the VA- a 1151 claim form and a tort claim form.

As I would later learn, both of those forms would be useless to me because of the two-year statute of limitations for filing medical malpractice suits in the State of Maine. I also learned that the VA knew in 2010 about the substandard care I received by Dr. Franchini but chose to withhold that information from me for three years. I also have learned that the VA did this with the other 87 Maine veterans as well. I am attaching an internal VA memo that clearly shows that the VA knew about this in 2010 and did not tell me.

I lost with my family—with my children-- because of the substandard care I received and because it was concealed from me. I can never get that back and it will haunt me for the rest of my life.

I have had several surgeries to repair the physical pain caused by Dr. Franchini. The pain will never fully go away—I will never be able to run again or lead a physically active life—but I have learned to live with it.

As a father, I will always carry the emotional pain with me and the time I missed out on with my children. It tears me apart to think that this all could have been prevented if Dr. Franchini had been held to the proper standard as a VA physician and if I had known about the botched surgeries rather than having them hid from me for years.

Thank you for your time. I hope you will do something to address this.

Sincerely,

Kenneth (Jake) Myrick