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STATEMENT BY

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ON BEHALF OF

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

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Dear Chairman and Members of the Committee:

On behalf of the American Federation of Government Employees (AFGE), I thank you for the opportunity to testify regarding recruitment and retention of Department of Veterans' Affairs (VA) health care professionals.

Throughout my thirteen year career as a Nurse Practitioner (NP), I have worked at the VA Puget Sound Healthcare System in Seattle, Washington. As the Professional Vice President of AFGE Local 3197 at Puget Sound, I am also in regular communication with other nurses and health care professionals at my facility. Through my participation in the VISN 20 Advanced Practice Nurse (APN) Advisory Group to the Office of Nursing Service and AFGE National VA Council discussion forums, I also hear a great deal about what health professionals at other facilities are experiencing.

We feel as if we have to fight harder each year for the pay and working conditions that we should be entitled to by law. The VA is losing nurses to private sector jobs where the pay is more competitive, shifts are more flexible and their input into hospital matters are more valued. In my facility, I see many RNs and NPs leave in frustration after only a few years with the VA. This turnover is very expensive. As I recently pointed out to management in an effort to secure APN retention pay, nursing research shows that the replacement cost of a nurse in an acute care facility is at least twice that nurse's regular salary. By the VA's own estimates, it costs $100,000 to bring on a new nurse.

At the same time, our older nurses retire as soon as they can, and many go on to work in the private sector. Nationwide, nearly two thirds of VA's registered nurses will be eligible to retire in 2010. Since I have gotten there, the average age of nurses at Puget Sound has increased noticeably.

It is especially frustrating for us to see Congress take steps to address this impending crisis with good pay and scheduling laws, only to have VA management undermine Congress' intent through loopholes, delay, and inaction.

Our facility is less short staffed than some others, but we have still seen an impact on veterans' care. Whenever our ICU is full, we cannot take ambulance calls and veterans must be diverted elsewhere. This seems to happen each winter, especially. As a result of huge backlogs for outpatient care in urology, podiatry, and other subspecialty clinics, patients with chronic illnesses such as diabetes are not getting monitored as frequently as they should. Puget Sound has massively increased its use of fee basis, non-VA providers to address these backlogs. Better recruitment and retention policies would be a preferable and less expensive alternative in the long run.

Nurse Locality Pay is a big source of frustration for VA nurses. In my facility, we were facing a serious recruitment and retention problem for APNs. We asked for retention bonuses and the Chief Nurse did declare us "hard to recruit." But instead of just giving us the bonuses, she wanted to tie our bonuses to our performance and require us to "highly perform" based on new criteria. We tried to explain to her and Human Resources what the law said and submitted a petition signed by almost 20 people. When the director arrived, he looked at a locality pay survey (LPS) that we did not even know existed, and decided to give us additional pay instead to address recruitment and retention.

I believe that if management received more training on LPS, there were be fewer problems across the country. Locality pay should be provided based on local labor market conditions, and be paid according to consistent rules, not on how hard employees fight for it or whether a particular manager decides to pay it.

I hear many stories from other facilities about delays in conducting surveys and management's unwillingness to share survey information. It is also very troubling that in many facilities, nurse managers receive their locality pay through separate, more favorable survey data.

The 2000 law also requires the VA to report annually on turnover rates, vacancies, staffing problems, and survey information from each facility. I have never seen this data and would find it very valuable. Therefore, I urge the Committee to strengthen these reporting requirements.

Nurse Premium and Overtime Pay

RNs have expressed frustration at the inconsistent application of premium pay (weekend pay and night shift differential pay) and overtime pay. At Puget Sound, management attempted to deny overtime pay for work above eight hours because it involved charting, which management contended was not direct patient care. Here, too, it was only after the union contested this policy did they pay overtime according to the law. Perhaps additional training on these pay provisions would also be helpful.

Another problem is that nurses working on a part-time schedule are not consistently receiving overtime pay for shifts longer than 8 hours when the shift spans two calendar days.

More generally, we believe that the VA's premium and overtime pay policies must be competitive with those of other workplaces. We urge the Committee to take steps to ensure that premium pay is available to all RNs who perform services on weekends or off shifts, work overtime on a voluntary or mandatory basis, or work during on call duty, and that overtime rules are applied properly.

Other Needed Pay Adjustments

CRNA Pay: Facilities around the country are finding it increasingly difficult to recruit CRNAs. To ensure that VA's CRNAs can receive locality pay increases needed to keep the VA competitive with local market conditions, AFGE recommends lifting the current statutory pay cap that prohibits any RN pay to exceed that of the facility's chief nurse.

LPN Pay: Under current law (39 USC 7455), VA health care personnel who are not covered by specific pay legislation can receive special pay increases at the discretion of their directors to achieve competitive pay levels. This provision sets a cap on the size of this increase. Congress has exempted other professions (CRNAs, physical therapists, and pharmacists) from this in order to keep their pay competitive. LPNs are now facing similar problems receiving needed special pay. Therefore, we urge this Committee to add LPNs to the exempted group.

I. COMPETITIVE NURSE WORK SCHEDULE POLICIES

In 2004, Congress provided VHA with two additional tools for recruitment and retention of RNs: alternative work schedules (AWS) and restrictions on mandatory overtime. As a result of delay and resistance by the VA at the national and local levels, both tools have failed to meet their potential for addressing VA nurse recruitment and retention problems.

Currently, local directors have complete discretion as to whether to offer AWS In my facility. The AWS schedule (either three 12-hour days or 9 month schedules) are not offered, even though they are available to nurses at other Seattle hospitals. Other VA nurses around the country report the same problem. If we attempt to challenge this, management says AWS is a nongrievable patient care issue under 39 USC 7422 (to be discussed.) It seems as if the law was never passed.

AFGE urges this Committee to hold the VA more accountable for proper implementation of the AWS law. An important first step would be to require the VA to provide data to Congress comparing the prevalence of AWS in the VA as compared to private employers, by each local labor market, in order to determine whether and to what extent the VA needs to offer AWS to its nurses to remain a competitive nurse employer.

Restrictions on Mandatory Overtime

We are fortunate at Puget Sound that voluntary nurse overtime meets the current need. However, I am aware of widespread problems in other facilities, where nurses are forced to work overtime on a frequent basis.

Once again, Congress' attempt to make VA hospitals safer and lessen nurse burnout has been thwarted. The law permits the VA to require overtime in cases of emergency. AFGE filed a national grievance to require the VA apply a nationally uniform definition of emergency consistent with common usage even though nine states (including Washington) have passed such laws, VA successfully blocked our challenge to the policy on emergencies based on "7422". As a result, facility directors continue to invoke the emergency exception when staffing shortages are the result of easily anticipated scheduling and hiring problems. AFGE urges the Committee to protect VA nurses and the safety of their patients by enacting a statutory, workable definition of emergency.

AFGE also supports expansion of overtime protections to LPNs and Nursing Assistants.

Finally, AFGE urges the Committee to strengthen the requirement in the overtime provision that VHA provide a report to Congress certifying that facilities have implemented nurse overtime policies. Reports issued to date appear to grant, without explanation, a large number of waivers to facilities that have not developed overtime policies.

II. PART-TIME NURSES

During my first five years at Puget Sound, I was full-time which meant I had job security in the event of a RIF and grievance and arbitration rights. When I switched to part-time to raise a family, I lost these rights-but no one made me aware of this at the time. I have seen the same thing happen to older nurses who have worked a decade or more for the VA who switch to part-time because of the stress of their job or to care for their aging parents. Now that I understand this two-tier system, it is a top priority for me as a union representative to educate our nurses about the trade-offs of becoming part-time.

Part-time RNs represent a valuable resource for the VA. They should be able to accrue the rights of permanent employees after they work the equivalent of two years, just like their full-time colleagues. This will be a valuable recruitment and retention tool for the VA. We urge the Committee to take action to address this inequity.

III. EDUCATIONAL PROGRAMS

The VA has excellent educational programs to use as recruitment and retention tools, including the Education Debt Reduction Program (EDRP) and National Nursing Education Initiative (NNEI). With adequate funding, better resource allocation, and more national direction, these programs could be even more effective. VA has a long tradition of "growing its own", i.e., training employees in lower level positions to become registered nurses, and training RNs to become NPs.

One of the problems we are seeing is that once the employee completes his or her training, the VA does not provide a suitable position. At Puget Sound, one of our RNs got assistance through

the NNEI program to become an NP but management refused to hire her when an opening came up so she quit.

Nurses at other facilities report problems with EDRP, a highly effective program that ties tuition loan repayment to a commitment to work at the VA. Applicants are being turned away at some facilities because EDRP funds have been exhausted, while EDRP funds in other facilities remain unused. In addition, the EDRP grant amounts need to be raised to better match current educational costs.

IV. NURSES NEED TO BE HEARD

I am proud that VA nurses have played such an essential role in the past in transforming its health care system into a world leader in health care quality and cost effectiveness.

According to a January 2008 VA national RN satisfaction survey, for the past two years, "Participation in Hospital Affairs" was one of two areas (along with staffing) where RNs were the least satisfied. Yet, VA increasingly deprives front line nurses of meaningful opportunities for input into groups shaping policies on key issues such as patient safety and qualification standards. This hurts the veteran and the taxpayer as well.

The VA keeps saying that magnet status is its most effective nurse recruitment and retention tool because it is said to offer nurses a voice in organizational decision-making. I hear reports from nurses in a number of facilities that patient care dollars and substantial staff time are being diverted to the process of preparing magnet applications and paying large certification fees.

I find this very troubling and wasteful. VA has a long and successful track record in soliciting and using input from front-line nurses. The Department simply needs to return to a more collaborative approach and bring the nurses back into policy setting groups where they were once welcome, not use an expensive third party to hear from its nurses.

V. RECRUITMENT AND RETENTION CHALLENGES IN OTHER VA HEALTH CARE PROFESSIONS

AFGE also urges the Committee to examine obstacles to VA's ability to recruit and retain physicians and other professionals. In a health care system of this magnitude that encompasses three different personnel systems (Title 38, Title 5, and Hybrid Title 38) and hundreds of local labor markets, one size will surely not fit all, but swift action is needed nonetheless.

PHYSICIANS

VA physicians are facing great pressures to meet current patient demand without additional resources. In my facility, management wants to require physicians who take sick leave or vacation leave to make up the clinics they cancelled, either on the weekends, evenings or during their administrative days that they need for other duties. If there were enough physicians in the VA workforce, others could cover when someone takes leave he or she has earned and needs.

At Puget Sound, we just lost our ER Director who was growing more and more frustrated at management for refusing to provide extra staff. Instead, ER doctors are required to work longer shifts. The ER has to draw from other pools on an ad hoc basis to find physicians to fill the gap. Clearly, a longer range staffing plan would be preferable.

Here too, the VA is undermining a valuable retention tool: the 2004 physician pay law (P.L. 108-445). Reduced reliance on contract physician services was at the top of Congress' agenda when this legislation. Based on our members' very mixed experiences with market pay and performance pay awarded under the new law, we are very doubtful that Congressional intent has been well served to date.

Unfortunately, the VA has not been forthcoming with its own data on recruitment, retention, and contract care. Although the pay bill has been in effect for 27 months, we have still not seen the 18 month report that Congress required the VA to provide. We believe veterans and the taxpayers deserve to see the evidence of whether contract care is the best solution to current VA physician shortages. More transparency in the pay process is greatly needed. In the market pay process that was first conducted two years ago, management excluded employee representatives from national groups that set pay ranges and selected survey. Front line practitioners were largely excluded at the local level from compensation panels setting individual pay, despite requirements in the law to include them. AFGE's own attempts to obtain information through the Freedom of Information Act were denied.

Annual physician performance pay awards under this law have been inconsistent and unjustifiably lower than the maximum amounts set by Congress. At many facilities, management has imposed improper performance criteria that determine bonuses based on factors beyond the practitioner's control, such as missed appointments. In very rare instances have front line physicians been allowed to have input in the selection of these critical criteria.

Unreasonable panel sizes are also causing severe morale problems among VA physicians, particularly in primary care and psychiatry. Many facilities keep raising their panel sizes, while others have simply lifted the ceiling altogether! As a result, practitioners do not have adequate to time to assess the medical needs of new patients (e.g., no additional time is allowed for a first time exam of veterans with traumatic brain injury) or enough patient openings to schedule needed follow up for veterans with chronic illnesses that require frequent monitoring. Management is also requiring them to work more weekend and evening hours without compensation to meet growing demand.

OTHER VA HEALTH CARE PROFESSIONALS

AFGE members report significant recruitment retention problems in other VA professions due to pay policies and other factors. For example:

PHYSICIAN ASSISTANTS: Like physicians, physician assistants (PAs) are also trying to deliver care in the face of unreasonable panel sizes. In addition, PAs lack an effective voice for their profession at the facility and national levels because the PA Advisor is only a part-time position. AFGE supports pending House legislation (H.R. 2790) to establish a full-time PA

Advisor. AFGE also urges legislative action to more closely align PA pay and benefits, including professional education assistance, with the private sector.

PODIATRISTS: The demand for podiatry services is rising among elderly veterans with chronic illnesses and injured OIF/OEF veterans. Unfortunately, the VA's compensation package for podiatrists has been largely unchanged since 1976. As a result, the pay gap between the VA and private sector is widening, causing severe recruitment and retention problems.

PSYCHOLOGISTS AND THE HYBRID BOARDING PROCESS: As part of the "hybrid Title 38" group of VA health care professionals, psychologists are required to go through a one-time boarding process to secure hybrid status and obtain promotions. Delays in the boarding process have been especially long and demoralizing: some psychologists have still not received their promotions two years after issuance of the board's recommendation. At a time when the VA is significantly increasing its mental health capacity, it is especially important that oversight from Congress and VA Central Office is increased to ensure that local facilities are carrying out the hybrid boarding process properly. More generally, AFGE is concerned about widespread delays in the hybrid boarding process that in some cases, are greater than hiring under Title 5. As a result, applicants awaiting credentialing and salary offers end up leaving for other positions because of long delays.

VI. Other Recruitment and Retention Issues

FERS SICK LEAVE: Currently, most federal employees covered by the FERS retirement system cannot apply unused sick leave toward retirement, while their counterparts under the older CSRS system can. Congress carved out an exception under Title 38 for RNs several years ago. We urge that this benefit be extended to all VHA personnel as an added incentive for staying with the VA.

DISINCENTIVES IN THE CURRENT FUNDING PROCESS: Recruitment and retention strategies depend on a workable funding process. So long as VA health care relies on discretionary dollars, the system will suffer from unpredictable and inadequate funding. In turn, facility directors will continue to be rewarded for keeping a lid on their spending through fewer pay increases, promotions, and less hiring.

TITLE 38 COLLECTIVE BARGAINING RIGHTS: As noted, VA's health care professionals are unable to challenge workplace policies on pay, scheduling, and other policies that hurt recruitment and retention, even when these policies are directly inconsistent with Congressional intent. Management asserts "nongrievability" under 38 USC 7422 in more and more instances. We greatly appreciate the important step that Senator Rockefeller and cosponsors Senators Webb, Brown, and Mikulski have taken by introducing S. 2824 to restore these critical rights.

Thank you.