

**American Federation of Government Employees, AFL-CIO**  
**Statement for the Hearing Record**  
**Committee on Veterans' Affairs**  
**United States Senate**  
**July 11, 2017**

The American Federation of Government Employees, AFL-CIO and its National VA Council (AFGE) appreciates the opportunity to submit a statement for the record on the bills under consideration today. AFGE represents nearly 700,000 employees in the federal and D.C. government including 250,000 rank and file employees at the Department of Veterans Affairs who provide vital care and services for our veterans.

**S. 1153 – Veterans ACCESS Act**

S. 1153 would bar providers from participating in VA purchased care programs if they have been fired from the VA for certain misconduct, violated requirements of their medical license, lost a VA credential, or committed certain crimes.

AFGE supports S. 1153. When VA privatizes care, the standards must be as high as they are inside the VA.

**S. 1261 – Veterans Emergency Room Relief Act**

AFGE opposes S. 1261 as currently written. Absent specific guidelines for when veterans can use non-VA urgent care centers, this bill could lead to more fragmented and uncoordinated care, and lead the VA further down the road of privatization. In addition, too many veterans are already subjected to harsh collection practices through Choice and through VA third party collection processes.

AFGE urges the Committee to first conduct an inventory of emergency departments and urgent care centers within VA medical centers; a number of facilities have closed emergency departments over the years without adequate justification. This study should also examine the feasibility of expanded urgent care centers within VA medical centers. Urgent care provided directly by the VA will be far more veteran-centric than urgent care provided in the private sector.

**S. 1266 – Enhancing Veteran Care Act**

This bill would give the VA authority to contract with non-VA entities to investigate deficiencies at VA medical centers.

AFGE opposes S. 1266. The VA has adequate internal capacity to investigate its medical centers, alone or in conjunction with other independent governmental entities. Contracting out this responsibility is likely to be used to lay the groundwork for further privatization.

### **S. 1279 – Veterans Health Administration Reform Act of 2017**

AFGE opposes S. 1279 because the criteria that would be used to determine if a veteran can seek care outside the VA are too vague (e.g. clinical best interest, undue burden, not economical). VA medical centers across the nation continue to be deprived of adequate staff and resources to provide all veterans with the timely, veteran-centric care they have earned and that they prefer. The conditions resulting from chronic underfunding and short staffing need to be addressed by strengthening the VA rather than further depleting resources away from the VA to provide more fragmented, nonspecialized care to veterans.

### **S. 1325 – Better Workforce for Veterans Act of 2017**

AFGE concurs that it is critical to fill the reportedly 49,000 vacancies at the VA. However, in AFGE's view, some of the provisions in the underlying bill – as currently written – fall short of improving hiring, recruiting, and training efforts within the VA and may have unintended consequences

Sections 101 and 102 of the bill gives the Secretary more direct-hire authority to fill current staff level vacancies. AFGE has serious concerns about how this increase in direct-hire authority will impact current federal employees. If this bill were to become law, AFGE fears that an unintended consequence could be preferential treatment given to outside candidates, thereby bypassing current VA employees who seek a promotion. Without adequate protections in place for current federal workers who have worked diligently to move up the VA ladder, the bill could have a negative impact on efforts to strengthen the VA workforce.

Section 106 of the underlying bill directs the VA to collect data on hiring effectiveness and Section 107 calls for the VA to design a standardized exit survey that would be voluntarily administered to outgoing employees. AFGE wants to stress the importance of having stakeholder input throughout the process of developing these mechanisms. It is critical that the VA consult with labor organizations who represent their employees as well as the many Veterans Service Organizations (VSOs) whose members rely on the VA for vital care and services when developing these survey tools. By incorporating input from both labor and the VSO community, the VA will be able to develop tools that adequately address issues at the worker, manager, and patient level.

One goal that appears throughout the underlying bill is the notion of transparency. AFGE appreciates the inclusion of this provision in the bill and the acknowledgment that the VA should be more transparent as it relates to staffing levels and vacant positions. With that in mind, AFGE would like to see the bill go further by posting not just nurse staffing levels, but all staffing levels

at every VA facility. In addition to the VA being transparent with its current workforce, AFGE would like to see the VA be transparent with posting job openings. AFGE highlighted its concern with new direct-hire authority above, and in that vein, wants to express its desire that necessary oversight is exercised so that the Secretary does not use this new direct-hire authority to fill positions without those jobs being publicly posted with an open announcement.

Another area where AFGE has significant concern with the underlying bill relates to the proposed use of non-federal employees to provide care and services to our nation's veterans. As it's currently written, Section 202 of the bill would allow the VA and private sector companies to essentially swap employees for a period that can range from three months to four years. AFGE has long opposed allowing the private sector to enter the federal government and then return to their original job outside of the government. This is an unnecessary step down the path to privatization, and AFGE opposes the section in its entirety.

AFGE opposes Section 204 as currently written. Section 204 establishes a two-tier payment system of base pay and market pay for directors of medical centers and Veterans Integrated Service Networks (VISN). The bill would set market pay for directors on a case-by-case basis through a process that requires the Secretary to consult at least two national surveys and takes into account managerial experience, complexity of the facility, and labor market conditions among other considerations.

Under Section 204, medical center and VISN directors – who would no longer have to be physicians themselves (as a result of Section 203) – would gain a significant right that was taken away from every VA physician and dentist last year. Public Law 114-315 repealed the requirement enacted in 2004 that “the Secretary shall consult two or more national surveys of pay” (Public Law 108-445).

In addition, Public Law 114-315 eliminated the requirement to set market pay through peer-based compensation panels, a valuable system for ensuring pay fairness, that protected providers from abuse of discretion by managers. According to reports from our physician members, the Secretary has not established any new policies to replace the compensation panels.

AFGE is ready and willing to work with the Committee to amend Section 204 to ensure that VA physicians and dentists reacquire adequate market pay protections, which in turn will strengthen recruitment and retention and enable the VA to provide medical care to more veterans on a timely basis.

AFGE also opposes Section 207 of the bill that would allow the Secretary to enter into a Memorandum of Understanding (MOU) with the Surgeon General to allow not less than 500 Public Health Service (PHS) commissioned officers to enter the VA. Allowing PHS to come into the VA would erode frontline workers collective bargaining rights and move the VA one step closer to privatization. PHS does not appear to have any significant expertise in treating veterans. In addition, Congress has provided VA with ample tools over the last two decades to recruit and retain nurses within the federal workforce. The VA should be focused on recruiting, hiring, and retaining high quality medical professionals who will make a career out of serving veterans, not finding creative stop-gap measures. The United State Government must keep the

promise it made to our veterans by rewarding their dedication and sacrifice with the best care and services imaginable, and the only way to do that is through hiring staff at every level who will be there long-term to care and provide for our veterans. AFGE opposes this section of S. 1325 in its entirety.

AFGE opposes Section 212 as currently written. Section 212 would require a review of the job descriptions, position classifications and grades for all VA police officers and firefighters to ensure compliance with Office of Personnel Management (OPM) classification standards. This section also mandates the development of staffing models and an audit of recruitment and retention efforts for both positions, and a report to Congress regarding the Department's use of special pay to address its critical shortage of police officers.

AFGE shares the concerns of lawmakers and veterans' groups that the outdated police officer job duties increase safety risks to the VA community. However, after consultation with classification experts, AFGE strongly urges the Committee to adopt a more comprehensive and aggressive approach to modernizing the VA police officer position, i.e. mandating that the Secretary exercise his *existing* statutory authority to convey law enforcement officer (LEO) status to all VA police officers. Only this major overhaul of VA police officer positions will ensure that VA has the capacity to adequately respond to the wide range of violent and non-violent incidents that arise on a regular basis at its facilities.

A recent expert analysis of VA police officer duties indicates that VA police officers already meet the statutory definition of law enforcement officer based on their primary duties and training requirements (5 CFR 831.902; 5 CFR 842.802).

AFGE previously requested that former VA Secretary Robert McDonald exercise this authority. AFGE stands ready to work with bill sponsors and other members of the Committee to develop a stronger statutory solution to this significant VA safety issue.

## **S. \_\_\_\_ Discussion Draft, The Veterans Choice Act of 2017**

AFGE strongly opposes the Veterans Choice Act of 2017. This bill would vastly increase the use of non-VA care through a massive expansion of the Choice Program. Like the Concerned Veterans of America plan that was soundly rejected by the Commission on Care, this bill would erode the critical core of the VA health care system and put such an enormous financial strain on the VA so as to threaten its very survival.

The bulk of veterans' care, and all primary care and mental health care must continue to be provided within the VA system, to ensure that veterans continue to receive the world-class integrated care they have earned and prefer. Only the VA, as the coordinator of care, can ensure that non-VA care is used in a smart way to ensure that veterans can receive the most appropriate care for their circumstances.

In contrast, this bill would not result in a smart use of non-VA care but rather an unlimited use of non-VA care that would likely lead to worse care for veterans in both the short and long term, and the severe weakening of our nation's leader in health care training and research.

AFGE also opposes this bill because it would not ensure the VA is the primary coordinator and arranger of non-VA care.

**S. \_\_\_\_\_ Discussion Draft, Improving Veterans Access to Community Care Act of 2017**

AFGE generally supports the Improving Veterans Access to Community Care Act of 2017. This bill enables the VA to modernize its services, which will both allow the VA to better integrate a truly smart use of non-VA care with VA's own world class services, but also allow the VA to meet increased demand from higher functioning and consolidated non-VA care programs.

AFGE also supports this bill's provisions for ensuring that the VA is the primary coordinator of non-VA care. The integrated networks created by this bill would allow veterans to more seamlessly move between the VA and non-VA providers when the use of non-VA care to supplement VA's own care is warranted.

The VA has made great progress in making needed improvements to its health care system and other operations over the past three years. This bill ensures that veterans will continue to be well served by the VA and integrated networks providing non-VA care when the VA cannot meet the need itself. This bill also is the far better option for protecting the critical resources that the VA must retain in order to keep its promise to veterans.

**S. \_\_\_\_\_ The Department of Veterans Affairs Quality Employment Act of 2017**

AFGE does not support this bill as a whole, though it includes several positive management improvement provisions included in previous legislation.

Like some of the provisions that raised concerns from AFGE in S. 1325, as already discussed, this bill relies too heavily on the private sector to improve the Department. For example, Section 3 would provide management training to VBA and VHA employees in a private sector setting. VA managers need to learn the best practices of other VA managers and when applicable, exemplary managers from other agencies. That is why AFGE supports management improvement provisions that strengthen VA's own managers through better training and performance evaluation.

AFGE supports a public database on vacancies, but the database in Section 6 of this bill has too narrow a scope. Veterans, the public, employee representatives, and all stakeholders need access to complete data about vacancies throughout the Department, not just vacancies that are determined to be critical by the Secretary.

The human resources training proposed by Section 7 is greatly needed, but to ensure that it is truly effective, labor representatives, and other stakeholders must have regular input in the

design and delivery of training curriculum. Without the perspective of front line employees, any HR training will continue to fall short.

AFGE has similar concerns in this bill regarding provisions for exit surveys and succession planning studies as we have for S. 1325, i.e. it is essential that these workforce improvement efforts reflect the regular input of representatives of front line employees.

Thank you for the opportunity to share the views of AFGE.