

STATEMENT FOR THE RECORD

**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
PROVIDED TO THE
SENATE COMMITTEE ON VETERANS' AFFAIRS
CONCERNING
PENDING LEGISLATION
MARCH 15, 2016**

Chairman Isakson, Ranking Member Blumenthal, and Members of the Committee, thank you for the opportunity to present the views of the American Federation of Government Employees, AFL-CIO and its National Veterans Affairs Council (AFGE) regarding pending legislation. AFGE represents over nearly 700,000 federal employees, including nearly 230,000 employees of the Department of Veterans Affairs. AFGE's representation of non-management, front line employees working in virtually every non-management VA position allows us to share a unique perspective with the Committee.

S. 2646

It appears that S. 2646 would immediately repeal the current pilot program established by Section 101 of the Veterans Choice, Access and Accountability Act of 2014 (Choice Act), and replace it with a permanent Veterans Choice Program. AFGE strongly believes that it is premature to establish a permanent Choice program at this time. AFGE urges the Committee to defer any action that would make what reports suggest is a flawed temporary program permanent less than halfway through its authorization period. Instead, Congress should conduct immediate oversight of the many serious problems that veterans are experiencing in trying to access non-VA care under the current pilot program.

Congress established the current Choice program as a temporary fix to what was perceived to be severe access problems. The current Choice program does not expire until the end of FY2017. It is

too early to determine whether the current pilot program has been a success or failure or whether its high price tag and adverse impact on VA's own capacity justifies its continuation.

The Choice Act also provided additional funding to address chronic staffing shortages. Since enactment of the Choice Act, the Department has made significant progress toward its goal of hiring more front-line clinicians and support personnel who provide veterans with the exemplary health care services that they rate highly and strongly prefer. In addition, five months ago, the VA rolled out its Congressionally-mandated plan to consolidate non-VA care programs, and Chairman Isakson called its implementation a top priority for 2016.

Veterans deserve great care and strong accountability from VA and non-VA providers alike. Therefore, we strongly recommend that the Committee take adequate time to address the many troubling reports regarding the Choice Act that have been made by veterans and the VA health care personnel trying to assist them. These include the pilot program's alleged failure to provide community clinics with consults containing diagnoses and physician instructions, or alert veterans that their evaluations have been scheduled, or notify the VA that a non-VA appointment has been made. This last item has resulted in many wasted in-house appointment slots.

Veterans have reported that they are being harassed by bill collectors in connection with Choice Act care. In addition, as a consequence of the Choice pilot program, veterans are facing longer waits for in-house VA care because the VA employees assisting them often have to spend hours on the phone trying to deal with HealthNet and TriWest. Similarly, short staffing at VA's own primary clinics has worsened because staff have to be diverted to the time-consuming Choice referral process.

OFCCP Jurisdiction: Section 201 of this bill would exclude VA-provider contracts from Office of Federal Contract Compliance Program (OFCCP) jurisdiction. AFGE strongly opposes the elimination of anti-discrimination protections for veterans and other covered employees who work for VA health care contractors.

OFCCP plays a critical role in protecting veterans who work for federal contractors. This office enforces the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA) that requires federal contractors to take steps to recruit, hire and promote protected veterans. Veterans protected under VEVRAA include: disabled veterans, veterans who served on active during a war, recently separated veterans, and veterans who received an Armed Forces service medal.

Many veterans transition from having been medics and corpsmen, saving lives on the battlefield, to civilian health care jobs. Those veterans who will work for contractors receiving millions and millions of VA dollars deserve to be protected against discrimination that may occur simply because of their veteran status. OFFCP ensures that veterans are protected throughout the employment process, including hiring, firing, pay, benefits, job assignments, promotions, layoffs, training and other employment related activities. OFFCP also enforces laws prohibiting discrimination on the basis of race, sex, disability and national origin.

How ironic it would be to enact a law that is specifically designed to protect veterans from job discrimination that would carve out the Department of Veterans Affairs' own health care agreements.

S. 2633

It appears that S. 2633 would establish a new Veterans Choice program after termination of the current pilot program. While AFGE supports bill provisions that would improve veterans' access to care, including authorization for tiered, integrated health care networks that enable veterans to make informed choices, we believe that establishing a new program at this time is premature. As already

stated, veterans are experiencing serious problems accessing appropriate, timely care under the current pilot program. We urge the Committee to instead conduct extensive oversight during the remaining 18 months of the pilot in order to properly evaluate its strengths and weaknesses.

Discussion Draft on title 38 appointment, compensation, performance management, and accountability for VA senior executives

AFGE strongly opposes the Administration's proposal to move all VA senior executives (SES) from the Title 5 personnel system to the Title 38 personnel system. Title 5 provides adequate flexibility to provide market pay to senior executives under Title 5. Section 5377 of Title 5 authorizes agencies to increase SES pay up to Level I of the SES scale if a position "requires expertise of an extremely high level in a scientific, technical, professional, or administrative field" or "is critical to the Agency's successful accomplishment of an important mission".

Conversion of VA SES positions to Title 38 would result in the elimination of all rights to appeal to the Merit Systems Protection Board (MSPB). AFGE strongly opposes the reduction of MSPB rights or other due process rights for any VA employees. The Choice Act provided the Secretary with an expedited process for removing and disciplining SES personnel (that only allows the MSPB administrative judge to accept or reject the discipline imposed by the Department). Alternatively, the Secretary can still use the process provided by 5 USC 7543(b) that allows the MSPB to lower the penalty as appropriate instead of completely reinstating the SES employee if it finds that the penalty was too severe.

AFGE urges the Committee to reject further attempts to eliminate VA employee rights, and instead, enact management improvement provisions included in H.R. 2999.